3584.

SUPREME COURT OF THE UNITED STATES.

No. 109.

HENRY W. RHODES, LIBELLANT AND APPELLANT,

vs.

THE STEAMSHIP GALVESTON, HER TACKLE, APPAREL, AND FURNITURE, JOHN R. CRANE, MASTER, AND CHARLES MORGAN, ISRAEL C. HARRIS, AND HENRY R. MORGAN, CLAIMANTS.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF TEXAS.

INDEX.

	Original.	Print.
Libel	1	5
Order for writ of seizure	9	9
Bond	9	10
Monition	10	10
Marshal's return on monition	12	12
Writ of seizure	13	12
Marshal's return on writ of seizure	13	12
Claim of John R. Crane	14	13
Stipulation bond of Crane	16	14
Cost bond of Crane	17	15
Order appointing commissioner to take depositions	18	15
Agreement as to testimony	18	15
Order enlarging time to answer	20	17
Demurrer of John R. Crane	21	17
Agreement as to testimony	22	18
Claim of Charles Morgan, Israel C. Harris, and Henry R. Morgan	23	18
Cost bond of Morgan, Harris, and Morgan	24	19
Demurrer of Morgan, Harris, and Morgan, claimants	25	20
Order setting cause for trial	26	21
Agreement as to testimony	27	21

	Original.	Print.
Motion of John R. Crane to dismiss writ of seizure	28	22
Order granting leave to file amendments to libel	28	22
Order overruling motion to dismiss writ of seizure	29	23
Answer of John R. Crane	30	23
Answer of Morgan, Harris, and Morgan	36	27
Release to Dabney, Bena, and Bogart	41	31

TESTIMONY ON PART OF LIBELLANT.

Testimony of J. W. Moore	42	32
" A. Swingle	43	32
" William Taylor	44, 51	32
" Daniel J. Toler	52	37
" John B. Ashe	52	37
" Captain Buncker	53	37
" Dr. John Taylor	55	38
" " George Lister	59	41
" " J. B. Dunkum	61	42
" " Ashbel Smith	61	43
" " Dunkum	63	44
" William Taylor	64	45
" Dr. Levi Jones	65	45
Interrogatories to James A. Haynie	67	46
Cross " " "	70	48
Deposition of " "	74	50
Interrogatories to John Kenedy	82	56
Cross " " "	84	57
Deposition of " "	86	59
Commission to take testimony	93	63
Interrogatories to George W. Dorris, H. G. Martin (W. G.), J. E. Kirby, John Hale, H. P. Hale, and J. E. Wilson	94	63
Cross-interrogatories to same	98	66
Deposition of Dorris for libellant	103	69
" W. G. Martin for libellant	110	74
" J. E. Kirby "	118	79
" H. P. Hale "	125	83
" John Hale "	134	90
" J. E. Wilson "	144	96

TESTIMONY ON PART OF RESPONDENTS.

Testimony of Jeremiah Smith	154	102
" Captain J. Haviland	156	104
" " Place	158	105
" " J. Haviland (re-examined)	160	106
" " Henry H. Williams	161	107
" Albert Ball	165	108
" Daniel Marston	165	108
" Bartholomew Sconlan	165	108

	Original.	Print.
Testimony of Captain Haviland	167	109
" George Ball	167	109
" Dr. S. B. Gardiner	167	109
" Patrick Dwyer	168	110
" Dr. Gardiner (recalled)	170	111
Commission to take depositions	172	111
Interrogatories to Hubert E. Bena, Peter M. Bogart, and B. F. Dabney	173	112
Cross-interrogatories to same	180	116
Deposition of Hubert E. Bena (Buchner)	183	118
Commission to take depositions	194	124
Interrogatories to C. B. Payne	194	125
Cross " "	197	126
Deposition of C. B. Payne	198	127
" A. Foster Axson, M. D.	205	131
" E. D. Fenner, M. D.	208	133
Commission to take depositions	211	135
Interrogatories to Bogart and Dabney	212	136
Cross " " "	218	140
Deposition of Peter M. Bogart	220	142
" B. F. Dabney	231	149
Release attached to deposition of Dabney	240	155
Deposition of E. Adler, M. D.	244	157
Decree	247	159
Order allowing appeal	248	160
Power of attorney to J. A. Swett	249	160
Appeal Bond	250	161
Mandate of Supreme Court	252	162
Appeal Bond	253	162
Citation	256	164
Marshal's return of service of citation	257	164
Clerk's certificate	258	165
Citation and service	259	165–6

3556.

UNITED STATES DISTRICT COURT,
District of Texas, ss:

HENRY W. RHODES
vs.
THE STEAMSHIP GALVESTON.

Be it remembered, that heretofore, to wit, on the 17th day of December, in the year of our Lord one thousand eight hundred and forty-nine, in the District Court of the United States for the District of Texas, at the December term, 1849, thereof, came Henry W. Rhodes by Joseph A. Swett, his attorney, into said District Court, and filed his libel against the Steamship Galveston in the words and figures following, to wit:—

UNITED STATES OF AMERICA,
District of Texas, ss:

HENRY W. RHODES
vs.
STEAMSHIP GALVESTON. } Term 18.

To the Honorable John C. Watrous, Judge of the District Court of the United States within and for the District of Texas.

The libel and complaint of Henry W. Rhodes, now of Galveston, in the district aforesaid, late a passenger on board the steamship Galveston, whereof John R. Crane now is, or late was master, against the said Steamship Galveston, her tackle, apparel, and furniture, and against the said master and all persons lawfully intervening for their interests therein, in a cause of damage civil and maritime, and thereupon the said Henry W. Rhodes alleges and articulately propounds as follows:—

First. That on the 8th day of December, in the year 1849, the said steamship Galveston, whereof the said John R. Crane then was master, was at the port of New Orleans, and bound on a voyage to the port of Galveston, in Texas; that the said John R. Crane, then being master as aforesaid, and that said steamship Galveston was used in carrying goods, wares, merchandise and passengers on the high seas, from the said port of New Orleans to the port of Galveston aforesaid in Texas, did on the high seas and within the ebb and flow of the tide, and within the admiralty and maritime jurisdiction of this honorable court, by himself or his agents, and the publicly known and acknowledged agents of said steamship Galveston, for a consideration in money then agreed upon, to be thereafter paid by the libellant, Henry W. Rhodes, to the proper agents of said steamship Galveston, contract and agree with the said libellant to take on board said steamship Galveston sixty-six negro slaves, the property of said libellant, and which the said libellant wished to bring to said port of Galveston, in Texas, and did then and there agree to and

with libellant, to provide suitable places and necessary comforts for said slaves on the high seas, and within the ebb and flow of the tides, from the port of New Orleans aforesaid to the port of Galveston aforesaid, and to transport and carry the said sixty-six negro slaves aforesaid carefully, and in good condition, and treat said negro slaves with humanity for and during said voyage; that said John R. Crane, master as aforesaid, by himself or his agents as aforesaid, directed and required said negroes, their bedding, clothing, and baggage, to be at and on board said steamship Galveston on Saturday, said 8th day of December, 1849; that in obedience to, and compliance with said request and order, your libellant caused said negro slaves to go on board said steamship Galveston on Saturday, said 8th day of December, 1849, at the port of New Orleans aforesaid; that said master, his agents and the officers of the said steamship Galveston would not permit said slaves to go on board said ship on said 8th day of December, but caused them to be exposed on the wharf, near said steamship Galveston, in a very exposed and cruel manner, during the night of said day; that the master and officers of said steamship did, on said 8th day of December, take and stow the bedding and most of the luggage of said negro slaves on board said steamship, in such a condition and places, that said negro slaves could not, and did not have the use of the same till the end of the voyage aforesaid, at Galveston; that after the arrival of said negro slaves at said steamship, for the purpose of being put on board said ship for said voyage, the said master, officers and agents of said ship continued to take in and on board a large quantity of boxes, barrels, crates and other freight; and therewith did fill and cover said vessel, and incumber her so much and to such an extent that no suitable and sufficient room or space was left for said negro slaves, nor were they in any way comfortably or humanely treated by said John R. Crane, master as aforesaid, the officers and men of said steamship, or the agents thereof, during said voyage on the high seas, from the port of New Orleans aforesaid to the port of Galveston aforesaid.

Second. That on the ninth day of December, 1849, the said negro slaves were taken on board said steamship, then lying at said port of New Orleans, and within the ebb and flow of the tide, and within the admiralty jurisdiction of this Honorable Court, by said master, the officers and mariners thereof, and were forced and huddled together by said master and his orders in such a cruel and brutal manner that they had not room to lay down, or even sufficient room to stand up and move about in consequence of the great quantity of barrels, boxes, crates, jackasses and sheep, and other freight which had been and was laden upon said steamship by order of the master and other agents thereof, and that in consequence said negroes suffered greatly all the time they were so on board said steamship, that is, during the voyage on the high seas from New Orleans to said port of Galveston.

Third. That said negro slaves were all in good health and con-

dition when the same were so shipped on board said steamship Galveston; that said steamship sailed from said port of New Orleans for said port of Galveston, on said 9th day of December, 1849, with said negro slaves on board as aforesaid; that said slaves suffered greatly that day and the succeeding day for the want of sufficient necessary space to occupy; that they were in consequence of the great amount and stowing of freight aforesaid, most cruelly exposed, and were unable to sleep or lay down, unless they were exposed to be trodden upon by others at any moment; that all the central or middle part of said steamship was occupied with freight and the various kinds described as aforesaid, in such a way and manner that said slaves could only occupy and have the narrow and uncomfortable margin as aforesaid, where they were dreadfully and cruelly exposed to the inclemency of the weather, and kept wet and cold; that on the night of the tenth day of December, 1849, or the next morning, and during said voyage, and on the high seas, one of said negro slaves, named Burrill, and who was a most trusty and skilful mechanic, and of great value to this libellant, died, as libellant believes and charges, by reason of the exposure, cruel and improper treatment of said master and other agents and officers of said steamship Galveston; that on said last named day another of said slaves, named Tisha, died from like and the same causes; that on the night before arriving at the port of Galveston, another of said slaves, named Peter, was found nearly dead; that libellant caused him to be brought into the cabin of said ship near the stove, and to be wrapped in blankets belonging to libellant, and a physician to be employed, who used the most powerful stimulants at hand; that said slave Peter was near the stove as aforesaid,about four hours before said John R. Crane, master as aforesaid, was aware of the fact; that as soon as said Crane learned that said slave was there, though he well knew the condition the said slave was in, he, the said Crane, ordered said slave to be immediately taken out and carried to a place of great exposure; that your libellant did then and there remonstrate and reason with said master, and told him if said negro was to be again exposed he would die; that said Crane, so being master as aforesaid, was peremptory in demanding the removal of said slave, and said he would rather said slave would die than to lose his boat, although said boat was in no manner of danger from said negro being near the stove as aforesaid; that said slave was by order of said master so during the voyage as aforesaid, and on the high seas, removed and most cruelly exposed; and libellant charges and believes his life was only saved by arriving at the port of Galveston a few hours afterwards, and by medical treatment and great attention there had for said negro slave.

Fourth. That during the whole of said voyage, and on the high seas, and within the admiralty and maritime jurisdiction of this honorable court, from the port of New Orleans to the port of Galveston, all said negro slaves were, by the undertaking of said master and said agents of said steamship, to have been treated properly and

with decent humanity, and brought with at least common care and attention. But libellant charges that, during the whole voyage aforesaid, all of said negroes were improperly and cruelly exposed by said master and others having authority on said steamship, and were treated with great and unnecessary severity on the high seas, and during the whole of said voyage. And libellant charges that said master and agents of said boat well knew, when they were taking in and on board so much and such a quantity of boxes, barrels, crates, jackasses, sheep, and other freight, that said negroes would be injured thereby. And libellant charges that all said slaves were injured by the wrongful actings and doings of said master and agents of said ship as aforesaid, and that many of them have been dangerously ill ever since, and are now ill. And libellant avers that a disease resembling the cholera has been brought on many of said slaves by reason of such wrongful acts and cruelty of said master, agents and other officers of said boat during said voyage and on the high seas; that three (3) more of said slaves have died in consequence of diseases produced, as libellant verily believes, by such wrongful and cruel conduct of said master and other officers of said steamship, since said arrival at the port of Galveston.

Fifth. That said negro slaves were treated, while on board said ship, and during the whole of the voyage, and on the high seas from said New Orleans to Galveston, in a very brutal and cruel manner by said master of said steamship Galveston, and the officers and crew thereof, by his orders; that only a narrow gangway or passage of about two feet and a half in width was left for said negro slaves to occupy on board said steamship during said voyage. And libellant avers that by the contract of affreightment and carrying of said negro slaves, as aforesaid, that the master, owners and agents of said steamship were bound to carry and transport them properly and safely, and to provide them with a proper and suitable place while on board said steamship and during the voyage aforesaid, and to deliver them, said negro slaves, in good order and condition at said port of Galveston.

And libellant further avers that in and by the negligence of the master and other agents aforesaid, of said steamship, and the other wrongful acts and neglects of the master and agents in not complying with said contract of carrying and affreightment, that all of said negro slaves have been materially injured, and their health and constitutions have been impaired, and that, thereby, a dangerous and violent disease has been brought on a great number of said negroes, who are now in the hospital and under medical treatment therefor, at great expense to your libellant, and that many of said negroes are and will be of little or no value hereafter, in consequence of said neglect and wrongful acts herein charged and pleaded and set forth; and that libellant has been and will be put to great trouble and expense in taking care of, maintaining, and providing for them.

Sixth. That said master, by himself or his agents, and the duly

authorized agents of said steamship, did undertake, for a valuable consideration, to carry and transport said negro slaves, for the libellant, from the port of New Orleans aforesaid, to the port of Galveston, in Texas, in good order and condition, and there to deliver said slaves safely and in good condition. And libellant says that said slaves were delivered to and taken on board said steamship in a healthy and sound condition; that they, said negroes, were neglected and treated with cruelty by said master and others, agents on said voyage, and were exposed to very inclement weather while so on board, and that said master, and all others having authority in and on said boat, wholly disregarded the said undertaking so to carry the said negro slaves as aforesaid, and did not comply with or perform said undertaking, but neglected to do so.

Seventh. That the libellant, by reason of said neglect and cruelty, and in not carrying said negroes carefully, and providing them with suitable places and necessary comforts for and during said voyage, as before pleaded and set forth, has sustained damage to the amount of ten thousand dollars.

Eighth. That all and singular the premises are true and within the admiralty and maritime jurisdiction of this honorable court; in verification whereof if desired, the libellant craves leave to refer to the depositions and other proofs to be by him exhibited in this cause.

Wherefore he prays that process, in due form of law, according to the courts of admiralty and of this honorable court, in causes of admiralty and maritime jurisdiction, may issue against the said steamship Galveston, her tackle, apparel and furniture, wheresoever the same shall be found; and that all persons having or pretending to have any right, title or interest therein, may be cited to appear and to answer, on oath, all and singular the matters so articulately propounded; and that this honorable court would be pleased to pronounce for the damages aforesaid, and for such other relief to the libellant as shall to law and justice appertain; and also to condemn the said steamship, her tackle, apparel, and furniture, and the party intervening therefor, in costs.

HENRY W. RHODES.

JOHNSON AND SWETT, *Proctors.*

DISTRICT OF TEXAS, *ss.*

Sworn to by the libellant, before me on this 17th day of December, 1849.

JOHN C. WATROUS,
U. S. Judge.

DISTRICT OF TEXAS, *ss.*

Let the writ of arrest issue as prayed for in the foregoing libel, against the said Steamer Galveston, her tackle, apparel and furniture,

upon the libellant entering into bond to be approved by the Clerk, in the sum of five hundred dollars, conditioned according to law.

JOHN C. WATROUS,
U. S. Judge.

And afterwards, on the same day, to wit, the 17th day of December, A. D. 1849, the following bond was executed and filed in the Clerk's Office, in the words and figures following, that is to say:—

UNITED STATES OF AMERICA,
District of Texas:

Know all men by these presents, that we, Henry W. Rhodes, William R. Smith, and Henry B. Martin are held and firmly bound unto John R. Crane, master of the steamship Galveston, and her owners, in the just and full sum of five hundred dollars, good and lawful money of the United States of America, for the faithful payment whereof we and each of us, jointly and severally bind ourselves, our joint and several heirs, executors and administrators, firmly by these presents, sealed with our seals, and dated this 17th day of December, A. D. 1849.

The condition of the above obligation is such that whereas the above bound Henry W. Rhodes hath this day filed in the Clerk's Office of the United States District Court for the District of Texas, his libel, whereof he prays usual process of this Hon. Court may issue against the steamship Galveston, her tackle, apparel, and furniture, and, the same having been granted—

Now, therefore, if the said libellant, Henry W. Rhodes, shall prosecute to effect his said libel, or on failure thereof shall well and truly pay unto the said Crane, master and owners of said steamship Galveston, all such damages and costs as they may sustain by reason of the wrongful suing out admiralty process as aforesaid, then and in that case the above obligation to be null and void, otherwise to remain and be in full force and virtue.

HENRY W. RHODES. [SEAL.]
Witness WM. R. SMITH. [SEAL.]
H. B. MARTIN. [SEAL.]

And afterwards, on the same day, to wit: the 17th day of December, A. D. 1849, the following monition was issued, that is to say, to wit:—

UNITED STATES OF AMERICA,
District of Texas:

The President of the United States of America to the Marshal of the District aforesaid, or any of his lawful deputies, greeting:—

Whereas a Libel hath been filed in the District Court of the United States for the District aforesaid, on this the seventeenth day of December, A. D. 1849, by Henry W. Rhodes, now of Galveston, in the

District aforesaid, late a passenger on board the steamship Galveston whereof John R. Crane now is or late was master, against the said steamship, her tackle, apparel, and furniture, and against the said master and all persons lawfully intervening, for their interest therein in a cause of damages, civil and maritime, setting forth that at the port of New Orleans, on the 8th day of December, 1849, that the said steamship Galveston was in said port, bound on a voyage to Galveston; that the said Crane, then and there master as aforesaid, the officers or agents of said steamship, for a consideration in money hereafter to be paid, contracted and agreed to take on board and transport to the port of Galveston sixty-six negro slaves, the property of the said Henry W. Rhodes, carefully and in good condition, and treat said slaves with humanity for and during said voyage. That said John R. Crane, master as aforesaid, the officers and agents of said steamship, by improper and illegal conduct failed to provide for said slaves the usual comforts and accommodations, and failed to treat them with humanity, and as a consequence, some of said slaves died and others greatly injured in their health, and all of them so much exposed to the inclemency of the weather as to endanger their lives; all of which illegal actings and doings has occasioned damages to the libellant of ten thousand dollars; and for the reasons and causes in the said libel mentioned, praying the usual process and monition of the said Court in that behalf to be made, and that all persons intervening in the said steamship Galveston, her tackle, apparel, and furniture, may be cited in general and especial to answer the premises, and on proceedings being had, that the said steamship, her tackle, apparel, and furniture may be condemned and subjected to pay the damages sustained by the said Henry W. Rhodes, libellant aforesaid, for the reasons set forth in the said libel, according to law.

You are thereby commanded to give due notice to all persons claiming the said steamship Galveston, her tackle, apparel, and furniture, or knowing, or having, or pretending to have anything to say why the same should not be condemned and subjected as aforesaid, according to the prayer of said libel, that they be and appear before said Court, to be held in and for said District at the Court-room in the city of Galveston, before the Judge thereof, on the seventeenth day of January next, at 10 o'clock A. M. of said day: the said notice to be given by the publication of this monition for at least fifteen days before the return day aforesaid, in the "Civilian and Galveston Gazette," a newspaper printed and published in the city of Galveston, in the District aforesaid, and by posting a copy of said monition at and upon the Court-house door of said Court. And you are also commanded in like manner and for like purpose, to give notice to said John B. Crane, now or late master of said steamship Galveston aforesaid, if to be found in your District, by service upon him of a copy of this monition; and what you shall have done in the premises do you then and there make return thereof, together with this writ.

Witness: the Honorable John C. Watrous, Judge of said Court,

under the seal of said court, at Galveston, this 17th day of December, A. D. 1849, and the seventy-fourth year of the Independence of the United States.

[SEAL.] JAMES LOVE,
Clerk.

(*Marshal's Return.*)

Received 18th December, 1849, and on the 19th December, 1849, in obedience to the within precept, I served F. H. Merriman, the attorney and proctor of John R. Crane, with a true, correct, and certified copy of this monition, said Merriman admitting the same as a service on the said John R. Crane; and by causing this monition to be published in the "Civilian and Galveston Gazette"—a newspaper published in the city of Galveston and in the district aforesaid—for the term of fifteen days; and also, by posting a copy of this monition on the door of the court-house of the United States District Court in the city of Galveston.

J. BATES,
U. S. Marshal.

And afterwards, on the same day, the following writ of seizure was issued, that is to say:—

UNITED STATES OF AMERICA,
District of Texas:

The President of the United States to the Marshal of the District of Texas, or any of his deputies, greeting:—

We command you to seize and take into your possession the steamship Galveston, her tackle, apparel, and furniture, wheresoever the same may be found: libelled this 17th day of December, A. D. 1849, by Henry W. Rhodes, on a claim for damages, in the District Court for the district aforesaid, before the Honorable John C. Watrous, Judge of said court; and, whatsoever you do in the premises, you will duly certify to the said District Court for the district aforesaid, at a term thereof which is now in session, and will be continued to, and held on the 17th day of January next.

Witness: the Honorable John C. Watrous, Judge of said Court, with the seal of Court, on the 17th day of December, A. D. 1849, and seventy-fourth year of the Independence of the United States.

[SEAL.] JAMES LOVE,
Clerk.

Upon which said writ, the following return is endorsed by the Marshal, to wit:—

Received 17th December, 1849, and on the 18th day of December, A. D. 1849, I executed the within writ by seizing and taking into possession the steamship Galveston, her tackle, apparel, and furni-

ture, in the harbor of Galveston. Said steamer was released the same day by me, John R. Crane, the captain thereof having intervened and given the usual bond, duly executed for the payment of all costs, damages, and expenses, that may be decreed against said steamship Galveston.

J. BATES,
U. S. M., District of Texas.

And afterwards, on the nineteenth day of December, A. D. 1849, John R. Crane, by his Proctors, filed the following claim, to wit:

(*Claim.*)

DISTRICT COURT OF THE UNITED STATES,
District of Texas:

In Admiralty.

HENRY W. RHODES
vs.
STEAMSHIP GALVESTON, her tackle, &c.

To the Hon. John C. Watrous, Judge of the District Court of the United States within and for the District of Texas:—

And now in said cause comes John R. Crane, master of the steamship Galveston, libelled in said cause, and says, that said steamship, her tackle, apparel, and furniture, are the property of Charles Morgan, a citizen of the State of New York, and Henry R. Morgan and Israel C. Harris, citizens of the State of Louisiana; that said persons are the true and *bona fide* owners thereof, and that said John R. Crane is informed and believes that no other person is the owner of the same; and said John R. Crane further says, that at the time of the arrest of said steamer in said cause, he was the master of the same, and still continues to be so, and that at the time of such arrest, he was the lawful bailee of said steamship, her tackle, apparel and furniture for said owners, and said John R. Crane now makes claim of said steamship, her tackle, apparel and furniture.

JOHN R. CRANE.

F. H. MERRIMAN,
POTTER & POTTER,
Proctors.

Sworn to and subscribed by the said claimant, John R. Crane, before me, this 19th day of December, 1849.

A. M. HUGHES, *Com'r.*

And afterwards, on the same day, to wit, on the nineteenth day of December, in the year of our Lord one thousand eight hundred and forty-nine, John R. Crane, by his proctors, filed the following bonds, to wit:—

(*Bond.*)

UNITED STATES OF AMERICA,
District of Texas:

HENRY W. RHODES
vs.
STEAMSHIP GALVESTON. } Bond.

Know all men by these presents, that we, John R. Crane, Doswell, Hill & Co., and L. M. Hitchcock, Jr., are held and firmly bound unto Henry W. Rhodes in the sum of twenty thousand dollars, to be paid to the said Henry W. Rhodes, his heirs, and assigns, for the payment of which well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, firmly by these presents. Sealed with our seal, and dated this eighteenth day of December, in the year of our Lord eighteen hundred and forty-nine.

Whereas a libel has been filed in the District Court of the United States of America for the District of Texas, on the seventeenth day of December, in the year of our Lord eighteen hundred and forty-nine, by Henry W. Rhodes against the steamship Galveston, her tackle, apparel, and furniture, in a cause of damage, civil and maritime, for reasons and causes in said libel mentioned; and whereas the said John R. Crane hath intervened for his interest and the owners thereof, as well as of all whom it may concern. Now, therefore, the condition of this obligation is such that, if the said John R. Crane shall pay all damages, costs, and expenses which shall be awarded against him or those for whom he intervenes, which shall be awarded by the final decree of said Court, or by an appeal by the appellate Court, then this obligation to be null and void, and otherwise to remain in full force and virtue.

JOHN R. CRANE. [SEAL.]
DOSWELL, HILL & Co. [SEAL.]
L. M. HITCHCOCK. [SEAL.]

Bond approved.

J. BATES,
U. S. M.

April 2d, 1850.

Doswell, Hill & Co., and L. M. Hitchcock appeared in open Court and acknowledged the within bond to be their act and deed for the purposes therein mentioned, and therefore the bond was approved by the Court and filed.

JAMES LOVE,
Clerk.

3591.

(*Cost Bond.*)

UNITED STATES OF AMERICA,
District Court of the U. S., District of Texas:

Know all men by these presents, That we, John R. Crane and F. H. Merriman, are held and firmly bound unto Henry W. Rhodes in the sum of two hundred and fifty dollars, lawful money of the United States, for the payment of which we jointly and severally bind ourselves, and jointly and severally bind our heirs, executors, and administrators firmly by these presents. Sealed with our seals and dated this the 19th day of Oct. A. D. 1849.

The condition of the above obligation is such, that whereas the said Henry W. Rhodes hath sued out a libel against the steamship Galveston, her tackle, apparel, and furniture, whereof the said John R. Crane is master, and which said steamship Galveston was seized by the Marshal, under the process issued from the U. S. District Court for the District of Texas, and said vessel was restored to said Crane, master as aforesaid, upon a bond executed as the law directs: Now should the said John R. Crane pay all costs that may be adjudged against him upon the final decision of this cause, then this obligation to be void, else remain in full force and virtue.

JOHN R. CRANE. [L. S.]
F. H. MERRIMAN. [L. S.]

Filed Dec. 19th, 1849.

JAMES LOVE,
Clerk.

And afterwards, on the twenty-first day of December, in the year of our Lord last aforesaid, on motion of libellant by his proctors, the Court here passed the following order, to wit:—

(*Order.*)

On motion, it is ordered, that John S. Jones, one of the Commissioners of this Court, be appointed to take testimony in this cause, due notice having first been served on the parties. The testimony so taken to be returned in the manner prescribed by law.

And afterwards, to wit, on the seventeenth day of January, in the year of our Lord one thousand eight hundred and fifty, the parties to this cause, by their Proctors, filed the following agreement, to wit:—

U. S. DISTRICT COURT,
District of Texas:

In Admiralty.

HENRY W. RHODES,
vs.
STEAMSHIP GALVESTON, John R. Crane, Master.

The Proctors of the libellant and respondents in said cause hereby

mutually agree, that the testimony in said cause, for both parties may be taken by filing interrogatories in writing, to be answered by witnesses, and giving notice and the opposing Proctors the privilege of filing cross-interrogatories, the answers to which interrogatories and cross-interrogatories may be taken before any Commissioner of the United States Court, in any State of the Union: or the parties may have the privilege of calling their witnesses personally into Court, to testify orally in the cause, and such testimony may be then reduced to writing, in the presence of the Court; and the same, in either case, may be used as testimony in said cause.

It is further agreed and consented to by the Proctors for the libellant, that the claim and answer of Charles Morgan and John T. Wright, of New York, and Israel C. Harris and Henry R. Morgan, of New Orleans, as owners, being signed and verified by Henry R. Morgan, shall be taken and considered the same as if signed by all of such owners, and verified by each; and any bond necessary to be filed by the owners in said cause, on being executed by the said Henry R. Morgan, shall be considered and taken as sufficient and valid as if executed by all the owners of said steamship.

F. H. MERRIMAN,
POTTER & POTTER,
Proctors for Claimants.

J. A. SWETT,
OVID F. JOHNSON,
Proctors for Libellant.

It is further agreed by and between the Proctors for the libellant and respondents in said cause, as mentioned in the above agreement, that all the provisions of the last clause of said agreement shall extend to each or any of the persons therein named, the same as it now does to the said Henry R. Morgan. And further, that any release or other instrument of any kind, which any or all of said persons may think it necessary or proper for them to execute, in any matter in any way connected with said cause, shall be sufficient, if signed in the same manner as hereby provided for the claim, answer, bond, &c., to wit: if signed by either Charles Morgan, John T. Wright, Israel C. Harris, or Henry R. Morgan.

JOHNSON & SWETT,
Proctors for Libellants.

M. M. POTTER,
Proctor for Claimants, &c.

And afterwards, on the same day, to wit; on the seventeenth day of January, in the year of our Lord one thousand eight hundred and fifty, the following entry was made in this cause, to wit:—

3592.

Thursday, January 17th, 1853.

HENRY W. RHODES
vs.
STEAMSHIP GALVESTON.

This being the return day in this cause, the same, by agreement of the parties and order of court, is continued until the 17th day of February, and that Charles Morgan, John T. Wright, Israel C. Harris and Henry R. Morgan, owners of said steamship, have until such time to appear and file their answers or demurrers herein.

And afterwards, on the same day, to wit, on the day and year last aforesaid, John R. Crane, one of the respondents in this cause, by his proctors, filed his demurrer to the libel herein filed, in the words and of the tenor following, to wit:—

(*Demurrer.*)

UNITED STATES DISTRICT COURT,
District of the State of Texas:

In Admiralty.

HENRY W. RHODES
vs.
STEAMSHIP GALVESTON.

And now, by his proctors, comes John R. Crane, master of said steamship Galveston, and claimant in said cause, and protesting that he is not bound in law to answer in any manner in said cause, but reserving the right so to do, should he deem proper or the court so direct; respondent demurs to the libel and complaint of said Henry W. Rhodes, and says that the same is wholly insufficient in law for said libellant to have and maintain his aforesaid action. Wherefore respondent prays judgment, and that said libel and complaint may be dismissed; and respondent for cause of demurrer shows:—

First. That libellant hath not in said libel and complaint stated such a cause as is within the jurisdiction of a Court of Admiralty.

Second. That libellant hath exhibited his said libel and complaint *in rem* against said steamship Galveston, and in *personam* against this respondent.

Third. That libellant hath not in his said libel and complaint stated any proper cause for a proceeding *in rem* against said steamship Galveston.

Fourth. That libellant hath in his said libel and complaint, alleged the making of a contract and a breach of the same on land, and not within the admiralty jurisdiction.

F. H. MERRIMAN,
POTTER & POTTER,
Proctors for Respondent.

And afterwards, on the second day of February, in the year of our Lord one thousand eight hundred and fifty, an agreement was filed in said cause, in the words and of the tenor following, to wit:—

(*Agreement.*)

THE UNITED STATES DISTRICT COURT,
District of the State of Texas:

In Admiralty.

HENRY W. RHODES
vs.
STEAMSHIP GALVESTON, &c.

We agree that a commission may issue instanter from said court in said cause, directed to any commissioner of the United States, resident in the city of New Orleans, in the State of Louisiana, and duly authorized to take affidavits and bail in civil causes, to be used in the courts of the United States, to take the answers of Robert E. Bena, Peter Bogart, and B. F. Dabney, to the interrogatories and cross-interrogatories now on file in said cause, and directed to them. And also a commission to issue in like manner to take the answers of C. B. Payne, to the interrogatories and cross-interrogatories now on file in said cause, and directed to him. And any commissioner as aforesaid, resident in said New Orleans, may take said testimony the same as though specially named in said commissions.

JOHNSON & SWETT,
Proctors for Libellant.

POTTER & POTTER,
Proctors for Respondent.

Feb'y 1st, 1850.

And afterwards, on the fifteenth day of February, in the year of our Lord last aforesaid, Henry R. Morgan, Charles Morgan, and Israel C. Harris filed their claim in the words and of the tenor following, to wit:—

(*Claim.*)

THE DISTRICT COURT OF THE UNITED STATES,
District of Texas:

In Admiralty.

HENRY W. RHODES
vs.
STEAMSHIP GALVESTON, her tackle, apparel, and furniture, and JOHN R. CRANE, Master.

To the Honorable John C. Watrous, Judge of the District Court of the United States within and for the District of Texas:

Now come Charles Morgan, of the City and State of New York, and Israel C. Harris and Henry R. Morgan, of the City of New Orleans, in the State of Louisiana, and claim the said steamship Galveston, her tackle, apparel and furniture, against which said Henry W. Rhodes has exhibited his libel and complaint in said court, and they say that they are the true and *bona fide* of said steamship, her tackle, apparel and furniture, and that no other person is the owner thereof.

HENRY R. MORGAN,
CHARLES MORGAN, by Att'y.
HENRY R. MORGAN,
ISRAEL C. HARRIS, by Att'y.
HENRY R. MORGAN.

F. H. MERRIMAN,
POTTER & POTTER,
Proctors.

DISTRICT OF TEXAS, ss.

Sworn to and subscribed by Henry H. Morgan, one of the claimants before me, on this 15 day of February, A. D. 1850, at Galveston.

E. JONES, *U. S. Com.*

Allowed.

J. C. WATROUS.

And afterwards, on the same day, to wit: on the fifteenth day of February, in the year of our Lord one thousand eight hundred and fifty, the claimants in this cause, by their proctors, filed the following bond, to wit:—

(*Bond.*)

Know all men by these presents, that we, Charles Morgan of the City and State of New York, Israel C. Harris and Henry R. Morgan, of the City of New Orleans, State of Louisiana, as principals, and M. M. Potter and Franklin H. Merriman, of Galveston, State of Texas, as securities, are held and firmly bound unto Henry W. Rhodes in the sum of five hundred dollars, lawful money of the United States, to be paid to the said Henry W. Rhodes; for the payment of which, well and truly to be made, we bind ourselves, and each of us, our and each of our heirs, executors and administrators, jointly and severally, firmly by these presents. Sealed with our seals, and dated this 15th day of February, one thousand eight hundred and fifty.

The condition of the above obligation is such, that whereas a libel has been filed, in the District Court of the United States of America for the District and State of Texas, on the 17th day of December,

1849, by Henry W. Rhodes, libellant, against the steamship Galveston, and John R. Crane master &c., for reasons and causes in the said libel mentioned, and praying the same may be condemned as specified in said libel; and whereas a claim and answer has been executed by the said principals in this bond above named, as the owners of said steamship, to be filed in said cause:—

Now, therefore, the condition of this obligation is such, that in case the said owners shall not support their said claim, then if the said obligors, or either of them, or the heirs, executors or administrators of the said obligors, or either of them, shall pay all such costs and expenses as shall be awarded against them by the final decree of said Court, or upon an appeal, by the appellate Court, as by reason of the failure of said principal obligors to support their said claim, they ought to pay, then this obligation to be void, otherwise to remain in full force and virtue.

[SEAL.] HENRY R. MORGAN,
[SEAL.] CHARLES MORGAN, by att'y, HENRY R. MORGAN.
[SEAL.] ISRAEL C. HARRIS, by att'y, HENRY R. MORGAN.
[SEAL.] FRANKLIN H. MERRIMAN.
[SEAL.] M. M. POTTER.

Signed, sealed, and delivered in presence of
EMMETT JONES,
P. EDMUNDS.

Approved.

J. C. WATROUS.

And afterwards, on the same day, to wit, on the fifteenth day of February, in the year of our Lord last aforesaid, Israel C. Harris, Charles Morgan, and Henry R. Morgan, respondents in this cause, by their proctors filed their demurrer to the libel herein, in the words and of the tenor following, to wit:—

(*Demurrer.*)

THE UNITED STATES DISTRICT COURT,
District of the State of Texas:

In Admiralty.

HENRY W. RHODES
vs.
STEAMSHIP GALVESTON, &c.

And now, by their proctors, come Charles Morgan, of New York,

and Israel C. Harris and Henry R. Morgan, of New Orleans, owners of said Steamship Galveston, and protesting that they are not bound in law to answer in any manner in said cause, but reserving the right so to do, should they deem proper, or the Court so direct; respondents demur to the libel and complaints of said Henry W. Rhodes in said cause, and say that the same is wholly insufficient in law for said libellant to have and maintain his aforesaid action against said Steamship Galveston. Wherefore, respondents pray judgment, and that said libel and complaint may be dismissed as to said Steamship; and respondents, for cause of demurrer, show—

First. That libellant hath not in his said libel and complaint, stated such a cause as is within the jurisdiction of a Court of Admiralty.

Second. That libellant hath exhibited his said libel and complaint *in rem*, against said Steamship Galveston, and in *personam*, against one John R. Crane, and all persons intervening, for their interest in said Steamship.

Third. That libellant hath not, in his libel and complaint, stated any proper cause for a proceeding *in rem* against said Steamship Galveston.

Fourth. That libellant hath in his said libel and complaint, alleged the making of a contract, and breach of the same on land, and not within the admiralty jurisdiction.

F. H. MERRIMAN,
POTTER & POTTER,
Proctors for Respondents.

Afterwards, on the eighteenth day of February, in the year of our Lord last aforesaid, the Court here passed the following order, to wit:—

HENRY W. RHODES
vs.
STEAMSHIP GALVESTON.

By consent of Counsel, with the assent of the Court, this cause is set for trial on the first Monday in April next.

And afterwards, on the same day, to wit: on the eighteenth day of February, in the year of our Lord one thousand eight hundred and fifty, the Proctors for respondents, in this cause, filed the following document, to wit:—

A mistake was made in the name of witness Hubert E. Bena, Mr. Merriman says, that the person to whom the interrogatories were put, and who was intended to be interrogated, is the same person who answered and whose testimony is taken and returned.

This statement of Mr. Merriman we consider as if made in form of affidavit, and make no objection to the mistake in name.

The same questions proposed to other witnesses, Dabney and

Bogart, may re-issue to take the testimony—or, rather, the original questions may be copied and sent.

We waive any objection to all the testimony not having been taken and returned with the first commission; as both parties are desirous for trial, we waive any defect that may be in form in returning said testimony.

J. A. SWETT.

HENRY W. RHODES
vs.
STEAMSHIP GALVESTON AND CLAIMANTS.

And afterwards, on the first day of April, in the year of our Lord one thousand eight hundred and fifty, John R. Crane, one of the respondents in this cause, by his proctors, filed the following motion, to wit:—

(*Motion to dismiss Writ of Seizure.*)

THE UNITED STATES DISTRICT COURT,
District of the State of Texas:

In Admiralty.

HENRY W. RHODES
vs.
STEAMSHIP GALVESTON.

And now, by his proctors, comes John R. Crane, late master of said steamship Galveston, and claimant in this cause, and moves the Court to dismiss the writ of seizure issued in said cause, and all proceedings had thereon; because there is not a sufficient bond filed in said cause by the libellant, or any person for him, to authorize the issuing such writ of seizure.

F. H. MERRIMAN,
POTTER & POTTER,
Proctors for John R. Crane.

And afterwards, on the same day and year last aforesaid, the Court passed the following order, giving leave to libellant to file amendments to his libel (which amendments are incorporated in said libel), to wit:—

HENRY W. RHODES
vs.
STEAMSHIP GALVESTON.

On motion of counsel for the libellant, leave of the Court first being had, the libellant filed sundry amendments to his libel, numbered from one to ten inclusive.

And afterwards, on the second day of April, in the year of our Lord one thousand eight hundred and fifty, the court here passed the following orders, to wit:—

(*Order.*)

HENRY W. RHODES
vs.
STEAMSHIP GALVESTON.

On this day came on to be heard the motion of defendant to dismiss the writ of seizure herein for want of proper bond; after argument of counsel heard, it is ordered that the motion be overruled.

(*Order.*)

HENRY W. RHODES
vs.
STEAMSHIP GALVESTON.

And now, on this day, came on for hearing the demurrer of defendants to plaintiff's libel and proceedings herein; after argument of counsel heard, because it seems to the court that the law arising upon the demurrer is for the libellant, it is ordered that the demurrer be overruled.

And afterwards, on the same day, to wit, on the second day of April, in the year of our Lord one thousand eight hundred and fifty, the respondents in this cause filed their answers in the words and of the tenor following, to wit:—

Answer of John R. Crane.

DISTRICT COURT OF THE UNITED STATES,
District of Texas:

In Admiralty.

HENRY W. RHODES
vs.
STEAMSHIP GALVESTON, her tackle, apparel, and furniture, and JOHN R. CRANE, master.

To the Honorable John C. Watrous, Judge of the District Court of the United States within and for the District of Texas:

And now comes John R. Crane, master of the steamship Galveston, and defendant in said cause, and for answer to the libel and complaint of said Henry W. Rhodes against the said steamship Galveston, her tackle, apparel, and furniture, and against him the said John R. Crane, alleges and articulately propounds as follows:—

First. That on the 8th day of December, 1849, the said steamship Galveston was at the port of N. Orleans and bound on a voyage to the port of Galveston, and that this respondent was then and there master for said voyage, and had so been master of the same for about the period of two years, and that Henry R. Morgan and Israel C. Harris were then and there the agents for said steamship, resident in

said New Orleans; that said steamship was then and there advertised to leave said port of N. Orleans on her said voyage on the next day, being the 9th day of December, 1849. That on said 8th day of December said libellant came on the wharf about said steamship and talked with the respondent about the transportation of some negroes on board of said steamship on said voyage; that the respondent then told said libellant that the negroes could not be put on board the steamer on said day, and not until the steamer was ready to leave said port; that the respondent made no contract with the libellant at any time in relation to the transportation of any negroes on said voyage or any other. That respondent did not direct said libellant to have any negroes, or their bedding, clothing, or baggage at or on board of said steamer on said 8th day of December, and does not know that any agent of said steamer, or any other person did so direct. That on the 7th and 8th days of said December there was a quantity of negro clothing, bedding, and baggage on the wharf alongside of said steamer, which respondent supposed to belong to said libellant and to be for the use of said libellant's negroes; that a portion of said negro clothing, &c. was on said days put and stowed away on board of said steamer by order of said libellant, and after said libellant had been expressly informed by the officers of said steamer not to have any of said articles put on board at that time which would be wanted for use during said voyage; that said articles so put on board on said days were stowed in the hold of said steamer, as said libellant was informed would be done. That respondent did not take on board of said steamer, and there was not laden on the same for said voyage a full cargo of freight, and that said steamer did not at any time during said voyage have on board a full cargo of freight by more than five hundred barrels. And said respondent says that said steamer was not at any time during said voyage encumbered with freight, and that there was ample and sufficient space and room on board of the same during all of said voyage for all of the negroes and passengers on board thereof.

Second. That on the morning of the 9th day of December, 1849, sixty-six negroes, or thereabout, were put on board of said steamer by said libellant; but that as to the ownership of said negroes this respondent knows nothing. That at the time said negroes were put on board of said steamer, and at all times during said voyage, said negroes were almost wholly destitute of clothing of any kind, except such as they had on their persons, and that was of an inferior kind; and that they had no bedding of any kind furnished them by said libellant, with the exception of a very few blankets. That said negroes were not at any time during said voyage huddled together on said steamer by respondent or by his order; that they had ample and sufficient room on board for all purposes, and were not treated in any cruel or brutal manner by any person connected with or belonging to said steamer, or by any other person, unless it was done by said libellant or his agent, and without the knowledge or consent of any per-

son connected with said steamer. That said negroes were taken and received on board of said steamer as deck passengers, and were used and treated during all of said voyage in the same manner that white deck passengers were during said voyage; and that said negroes suffered nothing through the fault or neglect of any person connected with said steamer during said voyage.

Third. That at the time said negroes were taken on board of said steamer, on said 9th day of December, 1849, many of them looked and appeared to be in bad health and condition; that on said 9th day of December, said steamer left said port of New Orleans on her said voyage to the port of Galveston, said negroes being on board, and this respondent being master of said steamer; that during all of that voyage, said negroes had all of the privileges and comforts usually allowed on said steamer Gavelston, and other steamers to deck passengers, in said trade between said ports of New Orleans and Galveston, and had all of the comforts and privileges which this respondent and the officers and crew of said steamer could grant or allow, or which they could legally be required to grant or allow to said negroes, or to any other deck passenger. And respondent further says, that said negroes were, during all of said voyage, treated with all of the kindness and care that usually is or could be bestowed upon deck passengers, on a voyage between said ports; and respondent utterly denies every circumstance of cruel or unusual treatment, towards said negroes, charged in said libel. Respondent admits that a negro man and a negro woman (being two of the aforesaid negroes) died during said voyage, the names of which this respondent does not know, and neither admits or denies them to be such as stated in said libel. And respondent says, that he knows nothing of the value of said negroes; and respondent says, that the death of said negroes was in nowise caused from or by the fault of any person belonging to or connected with said steamer, or from or on account of any fault in said steamer, or from any other cause than the act of God, or the neglect of said libellant, in properly providing for said negroes; that none of the aforesaid negroes were, during any part of said voyage, placed or kept in any other place than that universally allotted to deck passengers on said steamer, or in any other place than that pointed out to said libellant as the place where said negroes would be put during said voyage, before any of said negroes were placed on board of said steamer, except that some of said negroes were, on account of the inclemency of the weather during a portion of said voyage, allowed greater latitude and privileges, and treated with more care and attention during said voyage than is usually granted, given or allowed to deck passengers; and the respondent says, that the charge of cruel treatment to a negro described in said libel, by the name of Peter, is wholly untrue and without any foundation in fact; that on the morning of the last day of said voyage, respondent was informed that said negro had been taken into the cabin of said steamer, which is, and was appropriated exclusively to

the use of ladies and gentlemen, cabin passengers; that at that time there were on board said steamer about sixty-five cabin passengers, exclusive of children; that respondent immediately ordered said negro to be removed from said cabin, and placed in comfortable quarters, which was done accordingly.

Fourth. That all of said negroes were, during all of said voyage, treated with proper care and humanity, and were not in any manner improperly or cruelly exposed by respondent, or any other person or persons having authority on said steamer. Respondent further says, that there was not on board of said steamer during any part of said voyage, any improper or inordinate quantity or number of freight or passengers, and that none of said negroes have been in any manner injured by any of the actings and doings of respondent, or the agents of said steamer, as respondent believes; and respondent further says, that if any of said negroes have been sick, since the termination of said voyage, he has no knowledge of the fact, and that no disease of any kind has been brought on any of said negroes by any wrongful and cruel act of respondent, or the agents or officers of said steamer, and that none of said negroes have died in consequence of disease produced by any act or conduct of respondent, or any officer or officers of said steamer either before or after the arrival of said steamer at said port of Galveston, and that all of the charges in said libel, of cruel and inhuman treatment are false, and wholly without foundation.

Fifth. That said negro slaves were not treated in a cruel and brutal manner while on board said ship during any part of said voyage by the captain or any other officer of said ship, or persons under their command. Respondent denies the allegation of libellant that only a narrow gangway or passage of about two feet and a half in width was left for said slaves to occupy on board said steamship during said voyage; and says, on the contrary, there was ample and capacious room for all of the deck passengers, including said negroes: And respondent says that if any contract of affreightment was entered into in relation to said negroes as charged by the libellant, that the same is unknown to him; but if such has been made, he believes the same had been fulfilled and faithfully discharged, and that if any injury has been done to said negroes on said voyage, it was not done by any neglect of the master, officers, agents or owners of said vessel, but originated in the neglect and improper treatment of said negroes by the libellant or his agent. The respondent denies that any dangerous or violent disease has been brought upon said negroes through any neglect or fault of his, or the owners, officers, or agents of said boat; that if such disease does exist among said negroes as charged by libellant, of which respondent of his own knowledge knows nothing, this respondent says he is in nowise the cause of the same or responsible therefor; and says that the cholera was prevailing in New Orleans when said ship left on said voyage, and that from what he saw and heard in relation to the sickness of the two negroes that

3397.

died on the passage, he believes they died of cholera, and that if any disease has spread among said negroes since, that the same is cholera.

Sixth. That no contract was made by respondent, or to his knowledge was any undertaking entered into about the transportation of said negro slaves, except as stated in the answer to the first allegation of libellant; and that said negroes came on board said boat as stated in the answer to the several allegations of libellant. And respondent says that the health and condition of said negroes was as stated in the third article of his answer at the time they came on board said boat. Respondent denies the charge of cruel treatment, neglect and exposure against him made by the libellant in relation to the negroes during said voyage, but says the said negroes were treated with the same kindness and attention that the other deck passengers were treated on said voyage, and in the usual and customary manner that negroes are treated when carried on steamboats between said ports.

Seventh. Respondent denies all of the charges contained in the seventh allegation of libellant, and says that the same is wholly untrue.

Eighth. That all and singular the premises are true; in verification whereof, if denied, the respondent craves leave to refer to the depositions and other proofs to be by him exhibited in this cause.

Wherefore the respondent prays that this Honorable Court would be pleased to pronounce against the libel aforesaid, and to condemn the libellant in costs, and otherwise right and justice to administer in the premises.

JOHN R. CRANE.

F. H. MERRIMAN,
POTTER & POTTER,
Proctors.

Sworn to and subscribed by the respondent, John R. Crane, before me this 19th day of December, 1849.

A. M. HUGHS, *Com'r.*

Filed April 2d, 1850.

JAMES LOVE, *Clerk.*

(*Answer of Owners.*)

THE DISTRICT COURT OF THE UNITED STATES,
District of the State of Texas:

In Admiralty.

HENRY W. RHODES
vs.
STEAMSHIP GALVESTON, her tackle, apparel, and furniture, and JOHN R. CRANE, Master.

To the Honorable John C. Watrous, Judge of the District Court of the United States within and for the District of Texas:—

And now comes Charles Morgan, of the city and State of New York, and Israel C. Harris and Henry R. Morgan, of New Orleans, in the State of Louisiana, claimants and owners of said Steamship Galveston, and intervening for their interest in said cause wherein said Henry W. Rhodes has exhibited his libel and complaint against said Steamship Galveston, her tackle, apparel, and furniture, and John R. Crane, master, and all other persons lawfully intervening for their interests therein, for answer in said cause allege and articulately propound as follows:—

First. In answer to the first article of said libel, these respondents say that on the 8th day of December, 1849, said steamship Galveston was at the port of New Orleans, in the State of Louisiana, and bound on a voyage to the port of Galveston, in the State of Texas, and that said John R. Crane was then and there master for said voyage, and had been so master of said Steamship for about the period of two years; that Israel C. Harris and Henry R. Morgan, two of these respondents, were then and there the agents for said steamship, resident in said New Orleans; that said steamship was then and there advertised to leave said port of New Orleans, on her said voyage, on the next day, being the 9th day of December, 1849; that no contract was ever made on the high seas, within the ebb and flow of the tide, by said master, or his agents, or by any authorized agent of said steamship, with said libellant, to transport any number of negro slaves for said libellant on said voyage; but respondents say, that some days previous to said 9th day of December, and on land and in said city of New Orleans, said libellant made an agreement with the aforesaid agents of said steamship, to transport sixty-six negroes on board of said steamship, on said voyage; that said negroes were to be so transported on the deck of said steamship, and were to use and occupy the usual place on board said steamship assigned to deck passengers, and were to be used and treated as deck passengers usually were on board said steamship, in said trade between said New Orleans and Galveston, and were not during said voyage to be furnished by the master, officers, crew, agents, or owners of said steamship with anything except water; that said libellant was to pay the sum of one hundred and forty dollars for so transporting said negroes as aforesaid; that said master did not by himself or his agents, direct or require said negroes, their bedding, clothing, and baggage, to be at and on board of said steamship on said 8th day of December, and that it is not usual or customary to allow either deck or cabin passengers to go and remain on board steamers engaged in said trade, until the day and about the hour that such steamers are expected to leave on their voyage. Respondents say, that they are informed and believe that the said libellant was on said 8th day of December, informed by the master and officers of said steamship, that said negroes could not be taken on board on that day, and they further say, that they are informed and believe that all or the most of said negroes did go on board of said

steamship, and slept there during the night of said 8th day of December, without the consent of the officers, agents, or owners of said steamship. And respondents distinctly charge, that if all or any of said negroes were exposed on the wharf in said New Orleans during the night of said 8th day of December, no person in any way connected with or interested in said steamship, caused the same, or had any hand in causing the same. Respondents further say, that they are informed and believe, that on the 7th and 8th days of said December, there was a quantity of negro clothing, bedding, and luggage on the wharf alongside of said steamship which the officers of said steamship supposed belong to said libellant, and to be for the use of said negroes; that a portion of said negro clothing, &c. was on said days put and stowed away on board of said steamship, by the order of said libellant, and after said libellant had been expressly informed by the officers of said steamship not to have any of said articles put on board at that time which would be wanted for use during said voyage, and that such of said articles as were put on board at that time would be stowed in the hold, and could not be got at during the voyage; and that said articles so put on board on said days were stowed in the hold, as said libellant was informed would be done. Respondents allege, that they are informed and believe, that there was not laden on board of said steamship for said voyage, a full cargo of freight, and that said steamship did not at any time during said voyage have on board a full cargo of freight by more than five hundred barrels, and that said steamship was not at any time during said voyage encumbered with freight; that there was ample and sufficient space and room on board of the same, during all of said voyage, for all of the negroes and other passengers on board thereof, and that all of the passengers, of every kind, were treated in a humane and proper manner by every person in any way connected with, or interested in said steamship, at said port of New Orleans, and during all of said voyage.

Second. In anwer to the second article of said libel, these respondents say that they have little, if any personal knowledge of the matters which are therein stated; they therefore assume and adopt as their answer to the same, the second article of John R. Crane's answer in said cause; and they say upon information and belief, that they believe the same to be true.

Third. In answer to the third article of said libel, these respondents say that on the 9th day of December, 1849, said steamship left said port of New Orleans on said voyage to said port of Galveston, that being the day on which she was advertised to start on said voyage; and these respondents say that they have little, if any personal knowledge of the other matters stated in said article, and they therefore assume and adopt the third article of John R. Crane's answer in said cause as their answer in full to said third article of said libel; and they say upon information and belief, that they

believe said third article of said John R. Crane's answer to be true.

Fourth. In answer to the fourth article of said libel, these respondents say that at the time said steamship left said New Orleans on said voyage, the cholera was prevailing in said city, and had so been prevailing there for a long time previous, and respondents say that they are informed and believe that said negroes had been in and about said city for several days previous to said 9th day of December. Respondents say that said negroes suffered nothing during any part of said voyage by or through any fault of theirs in any respect. Respondents say they have little, if any knowledge of the other matters stated in said article, and they therefore assume and adopt as their answer in full to the same, the fourth article of John R. Crane's answer in said cause, and they say upon information and belief, that they believe the same to be true.

Fifth. In answer to the fifth article of said libel, these respondents say that no other contract than the one stated in the first article of their answer, was ever made by them, or any authorized agent or officer of said steamship with said libellant in relation to the transportation of said negroes; and that they are informed and believe, that there were many other deck passengers on board said steamship during said voyage, and amongst them were about twenty white persons; and respondents say that they have little, if any personal knowledge of the other matters stated in said article, and they therefore assume and adopt as their answer in full to the same, the fifth article of John R. Crane's answer in said cause. And they say upon information and belief that they believe the same to be true.

Sixth. In answer to the sixth article of said libel, these respondents say that no other contract than the one stated in the first article of their answer, was ever made by them or any other authorized agent or officer of said steamship with said libellant, in relation the transportation of said negroes, and respondents say that they have no personal knowledge of the other matters stated in said article, and they therefore assume and adopt, as their answer in full to the same, the sixth article of John R. Crane's answer in said cause, and they say upon information and belief, that they believe the same to be true.

Seventh. In answer to the seventh article of said libel, these respondents say that they have no personal knowledge of the matters therein stated, and they therefore assume and adopt as their answer to the same, the seventh article of John R. Crane's answer in said cause, and they say upon information and belief, that they believe the same to be true.

Eighth. That all and singular the premises are true; in verification whereof, if denied, respondents crave leave to refer to the depositions and other process to be by them exhibited in this cause.

Wherefore these respondents pray that this Honorable Court would be pleased to pronounce against the libel aforesaid, and to con-

demn the libellant in cost, and otherwise right and justice to administer in the premises.

HENRY R. MORGAN,
CHARLES MORGAN, by Att'y,
HENRY R. MORGAN,
ISRAEL C. HARRIS, by Att'y,
HENRY R. MORGAN.

F. H. MERRIMAN,
POTTER & POTTER,
Proctors.

Sworn to and subscribed by Henry R. Morgan, one of the respondents, before me, this 15th day of February, A. D. 1850, at Galveston, in the District of Texas.

E. JONES,
U. S. Commissioner.

Filed April 2, 1850.

JAMES LOVE,
Clerk.

And afterwards, on the fourth day of April, in the year of our Lord one thousand eight hundred and fifty, respondents by their proctors, filed the following release, to wit:—

(*Release.*)

Know all men by these presents: That we, Charles Morgan and John T. Wright, of the State of New York, and Israel C. Harris and Henry R. Morgan, of the State of Louisiana, owners of the steamship Galveston, do each and all of us hereby release and for ever discharge Hubert E. Bena, Peter Bogart, and B. F. Dabney, and all others of the crew of the steamer Galveston, and each and all of them, from all claims and demands, and all actions and rights of action, of every name, nature, and description, which we or either of us have against any one, more or all of said persons, on any account, or for any cause whatsoever, up to this date.

In witness whereof we have hereunto set our hands, and affixed our seals on this fifth day of February, A. D. 1850.

Signed per Israel C. Harris:—

[SEAL.] CHARLES MORGAN,
[SEAL.] JOHN T. WRIGHT,
[SEAL.] ISRAEL C. HARRIS,
[SEAL.] HENRY R. MORGAN.

Witness:—

CORN. B. PAYNE,
MARLBOROUGH FARRELL,
T. SMITH.

Sworn to and acknowledged before me, this fourth day of April, A. D. 1850.

JAMES LOVE,
Clerk.

(*Testimony in behalf of the Libellant.*)

The libellant in this cause produced the following witnesses at the hearing thereof, whose testimony was reduced to writing in open court as follows, to wit:—

James W. Moore, a witness in behalf of libellant, sworn, says:—

Has been accustomed to seafaring; knows steamship Galveston; has been on board frequently. The master, with proper means at hand, could easily extend an awning or covering over the forward deck; saw it on Galveston last trip of the vessel. The sides and front could be so guarded by tarpaulings, as to protect deck-passengers from severity of weather; which, if done, would, in a great measure, protect passengers from rain and cold. Has been to sea frequently on steam-vessels, only as a passenger. The awning, he said, on Galveston, was made of boards. Awning has been the usual protection; an awning of canvass, unless very strong, could not be kept up in stormy weather. Thinks it would in a voyage from New Orleans, but would not prevent waves from breaking over the forecastle in stormy weather. Has never seen an awning spread, in a voyage from New Orleans. If the wind was aft, she could carry an awning; the wind would be abeam from New Orleans to this place, in a norther; an awning, unless very strong, with extra fastenings, could not be used in such a wind. In cold weather, it would be better to have protection from shelter, than the benefit of free circulation of air. If covered by awning, as he states, it would be close and disagreeable; the effluvia from deck passengers, especially negroes and stock, would be offensive to cabin passengers. He believes, if the deck allotted to passengers was enclosed with curtains for protection, the deck would be sufficiently ventilated by occasionally shifting or opening the curtains.

Witness for Libellant.—A. T. Swingle sworn: Has frequently seen awnings or curtains put up for protection of deck passengers, and has always found it beneficial; is not a seafaring man; passengers would be better protected by the shelter afforded by the gangway than by tarpaulin awnings on deck; has not been on board any steamship but the Ohio when such awnings were used.

Witness for Libellant.—Wm. Taylor sworn: Knows Henry W. Rhodes, libellant; came out on board the Galveston in his company, as overseer, and had charge of the slaves; there was put on board in N. Orleans sixty-six slaves; they started from Pickens County, Alabama, about the 16th November, 1849; knew the negroes five days previous to their starting on the journey; had charge of them from

that time to Texas; they were detained on the lake shore until the evening before they were shipped; this was done because they would be more comfortable there than in New Orleans; they had an abundance of bacon and corn bread as food, four pounds of bacon and as much bread as they used for each one per day, which is sufficient for a healthy person; their health was good, no one sick until their arrival in New Orleans; they were as well clothed as any negroes he had ever seen; the clothing was thick janes; all were so clothed; they had a full supply of bedding, &c.; on Saturday morning, 8th December, he went to the boat to see the captain; did not see him; clerk told him to bring in the negroes Saturday evening, as there would not be time to bring them on Sunday morning; that they should go aboard that night; and after he did bring them, the clerk told him they could not come aboard, but there were tarpaulins on the wharf which would make them as comfortable as if aboard; paid for the tarpaulin to wharfinger, or some other; would not, but for conversation with clerk, have brought the negroes to New Orleans on Saturday evening; and believing, as he was told by the clerk, be permitted to go on board.

He was directed by the captain on Friday evening when he went to stow baggage, that beds must be stowed in the hold, as there would not be room on deck, but to retain the blankets; he was directed to bring in the beds on Friday by the captain; has been at sea four years; the negroes were not permitted to come on board until just before the boat left, the last one not five minutes before the boat left; the freight on deck forward the shaft in the gangway on each side, was wagons, boxes, crates, and filled the gangway from one to four feet, leaving only a passage of two or two and a half feet wide; there was no place where the negroes could lie down to sleep but on the freight, and that not in comfort, as it was stored without any order, and could not be so arranged as to make passengers comfortable; this arose from its character and quantity; the open deck was stowed with sheep, asses, and coops for fowls, and crates, and entirely filled, with the exception of a small space around the capstan; during the voyage most of his time was spent among the negroes in endeavoring to provide them comforts; they had an abundance of food all the voyage; were regularly fed, and saw it done; they brought to Galveston food cooked and not used on the voyage, and besides he got of the cook of the boat cooked fresh meat left from boat's table; kept Dr. Rhodes advised of the situation of negroes from time to time; three negroes taken sick during the voyage, other than sea sickness; two died during voyage after the boat left the Mississippi River, and before her arrival at Galveston; if they had had sufficient space and could have lain down, they had sufficient covering to protect them; they were all so crowded that all could not lie down at once, and when in the gangway they were liable to be trodden on by men and others passing; and those on top of freight could not lie down, but lean against or set upon the boxes; they

could not lie at length on account of its crowded state; Dr. Rhodes and himself both paid as much attention to the slaves as was possible under the circumstances; when he found the first one sick, he was as he thought prostrated with cold; two hours before he was standing up and said he was well; a short time after he found him in a position where water was running over him; he found that his pulse was weak; they then gave him remedies that revived him; he carried him to the engine room; he was ordered by the engineer to take him out, or he would throw him in the pit; we took him out of the engine room and laid him on the woodpile; the negro died two hours after on the woodpile; he was not in the way at all in the engine room; Dr. Rhodes and himself paid strict attention to him until he died; Dr. Jones also saw him; he died on the 11th; his clothing was good; he had on good shirt, pantaloons, jacket, blanket coat, shoes and stockings, all good and substantial; the name was Burrel.

The next taken sick was Litia; when he first learned "Litia" was sick, she was in a wagon body; he went immediately for remedies; before he returned she was dead. There were seven or eight others in the body all sitting up. Her clothing was a thick woollen over-dress, and good under-clothes. The water was breaking in the wagon body constantly from the sea; it was by the side of the shaft, and the water came constantly through the hole from the wheel-house.

Peter was also taken sick; he first saw him between twelve and one o'clock; he was standing up; his feet were very cold. When he saw him soon after he was lying down nearly pulseless; they took the boy into the cabin, the stove of which was near the entrance; they wrapped him in a blanket and laid him by the stove, gave him stimulants and applied mustard plasters. He had medical attendance other than Dr. Rhodes. All the cabin passengers present advised him to be brought in the cabin as a means of saving his life. About daybreak the captain came in and ordered him to be taken out; and said if not removed he would kick him out; the crew, or some of them, were called and carried him out, and placed him on the after hatch. He believes his life depended on taking him to the stove, and therefore justifiable under the circumstances. Every care was taken of the boy after his removal until their arrival in Galveston. Soon after he was taken to the hospital. Soon after their arrival here we rented a two story house of sufficient space to keep them from being crowded. Soon after the arrival a good many of the negroes were taken sick. Drs. Smith, Taylor, Lister, and Dunham were called in, and they had every care and attention, under the circumstances, possible. The number of negroes that died on passage and in Galveston was six. The names of those who died here was Caroline, Patty, and a child, one boy three, and one four years old. Burrell, 35, a mechanic; Caroline, 30; Eliza, 18; Litia, 13; Patty, 10; a boy 3 years old, and one other 3 and one 4.

3607.

Burrell was worth	- - -	$2,000	
Caroline	" - - - - -	1,000	First-rate cook.
Eliza	" - - - - - -	750	Seamstress.
Patty	" - - - - -	500	
Titia	" - - - - - -	600	
Two	" 300 each. - -	600	
One	" - - - - - -	250	
		$5,700.	

Dr. Rhodes was put to great trouble and expense in consequence of their illness. Those that did not die were ill from severe cold, and not put to work for more than a month after.

Went to Captain after one of the negroes were taken sick, and asked him to provide a comfortable place; he said he had no place for them, "and damn the negroes, he did not care if they did die, it would be no loss to him." His whole conduct was rough and improper; it was such as left the impression upon witness that he had no humanity; he made no effort to relieve from the severity of the weather. But for the gangway so incumbered, the situation of the negroes would have been much more comfortable, and they could have been better attended to; I remonstrated with the clerk as to the quantity of freight in the act of being put on board, as not leaving room for the negroes; the clerk replied there would be plenty of room for their comfort; the bedding of the negroes, the effects of Dr. Rhodes, and his wife being aboard, it imposed the necessity of taking the negroes aboard, when it would not otherwise have been done; one of the crew kicked a negro woman lying in the gangway several times; she was sea sick at the time, and died in Galveston.

Cross-examined.—Has made but one trip from N. O. to Galveston; was three years at sea, on coast of Africa, as clerk on board Vandalia; has made three voyages on steam vessels on salt water, on the U. S. coast; had charge of Rhodes's negroes, five days previous to the 16th November last; had not known them before that time; neither owns or has interest in any portion of negroes; they remained at the lake three or four days, before taken to N. O.; no negroes about the negroes whilst at the lake; rented a house for them there with four or five rooms; constant travelling on railroad from N. O. to lake in the daytime; many white persons there, but saw no negroes; all the negroes remained at the lake, but two or three that he took to N. Orleans, the morning of his arrival, to assist in taking freight, &c. to the Galveston, and brought them back in the evening; the names of the negroes he does not recollect; none of those that died; some of them since sick with colds; the night of the 8th he stayed on the wharf, until 12 o'clock with the negroes, and then lodged in a house 200 yards distant; does not know where Dr. Rhodes staid; he was on the wharf about sunset; did not see him after; nearly every one of the negroes had a mattress, probably made

of cotton; does not know the exact number; each negro he knows had three blankets, some of them had more; he saw the negroes an hour before day, on the morning of the 9th, and found them on the wharf under tarpaulin; did not again leave them until they went aboard; left no white person in charge of them; but left them in charge of a negro man he could rely on; the negroes had their mattresses at the lake until he was told by the captain to bring them in, which was done on Friday; the captain said the mattresses must go below (the blankets to be kept out), as he had not room on deck for mattresses; some negro baggage and clothing was taken to the boat on Friday, before she left N. Orleans; while it was lying at the wharf alongside of the boat, Captain Crane told me to select out such articles of clothing and other things as the negroes would want on the passage, for he said the rest of the baggage and clothing would be stowed in the hold of the boat, where it could not be got at until the boat arrived in Galveston, Texas; I told Captain Crane that all the baggage and negro clothing on the wharf might be so stowed away.

As the negroes had with them all the clothing they would need on the passage, all the rest of the negro luggage was brought on board of the boat by the negroes the morning the boat left, and none of it so brought on board was put in the hold of the boat, but was kept where the negroes had the use of it on the passage. He thought the negroes would not want the clothing put below, but would want the mattresses, which the captain objected to. Got provisions only once from cook of Galveston; got brandy from passengers, one box of mustard from steward, and paid him for it; pepper was also given negroes; the medicine was furnished by Dr. Richardson; he applied to the clerk for brandy; he said he had brandy but could not get to it: he also bought a bottle of brandy from steward; does not know that there was a bar-keeper on board. He applied to no officer of the boat for medicine but mustard; was told they had none. Does not know how many negroes could sit in a wagon-body. In such a wagon-body as the negroes were in, more than three or four could not lie in comfortably. There were eight negroes besides Litia in the wagon-body where she died. He had not been told she was sick: he had gone as usual to look after them: her mother told him she was sick. When the negroes were sick, he asked the clerk where he could put them. He answered they had no place for them. The place they were in was the only place for deck passengers. Does not know that any person was present when the Capt. said he didn't care a damn if they did die. He was on hurricane deck. He told him the negroes were sick and had no place for them, when he made reply as above. Did not then ask him at that time to take them into the cabin. Does not know that the kick given the negro woman in the gangway caused her death; gave her a hard kick in the side. He told her to get up; she told him she could not; she was only sea-sick; and witness raised her up; could not remove her, as there was no other place to remove her

to he could find; she did not recover of the sea-sickness until after the arrival in the harbor; complained of pain in her side; gave her camphor and had her side rubbed with it; not related to Dr. Rhodes; never saw him but once before he employed him.

Direct examination resumed.—He thinks it was the 26th and not 16th he left Fairfield, Alabama; is not certain as to time. If freight had not occupied both sides of the gangway, one side would have been comparatively comfortable. The space between freight and deck, alluded to on yesterday, was outside the gangway; the other portions of the gangway the freight was stowed nearly close to the ceiling. He believes that if the Capt. and officers had used ordinary efforts, the negroes might have been made comfortable. He applied to have the sliding doors, used to have passage closed, to prevent water from running in gangway from open deck; the clerk refused; if this had been done, it would have greatly relieved the negroes.

Cross-examination of Taylor.—Distance from place of departure to New Orleans, 2½ days run, down the river to Mobile; they were three or four days in arriving at Mobile; arrived there in the morning, and left in the evening for New Orleans, fair weather. The outer clothing the same all the way to Galveston; under clothing shifted at the lake, shirts and drawers; was not sea-sick on the voyage; gave all the negroes his personal attention, and knew more about their situation than any others; the clothes taken off were washed and dried at the lake; the outer clothing wore whilst in Galveston, was the same in which they made the journey. Had been overseer for Sharpe, in North Carolina, more than three years. He had about forty negroes. Was overseer for Sharpe's brother in Alabama about the same time. Has had charge of negroes long enough to know how to manage them.

Daniel J. Toler, witness for libellant, sworn, says:—

Has known Dr. Rhodes but a few days; he visited Dr. Rhodes's negroes when they were in Galveston; Dr. Lister, one of the physicians, asked him to call and examine the negroes as to their clothing; they were well clad, good warm clothing; they had the appearance of having been well treated; his call to see the negroes was some few days after their arrival; they were in a two-story house, which was comfortable; Dr. Lister did not tell him until after they had got in the house, he expected him to be a witness.

John B. Ash, witness for libellant, sworn, says:—

Saw Dr. Rhodes's negroes after their arrival frequently; he believes their clothing, from his observation, to have been the best kind of negro clothing; they were in a two-story house near Mr. Potter's residence; he observed their clothing more particularly on account of having heard it was not good; his attention was not particularly directed to their clothing until a few days before they left.

Capt. Buncker for Libellant. Is 39. Has been at sea from the

age of fourteen, generally; the northers on American coast generally commence on the Gulf east by south, and travels in a circle. A storm will frequently rage at one point; 100 miles distant it may be and frequently is comparatively calm. Lavaca Bay is southwest 180 miles distant; has been residing on Gulf of Mexico since 1837; recollects the arrival of steamship Galveston about 12th Dec.; was on board from the time she made light ship off Galveston until she landed at the wharf; was the keeper of the light-boat; noticed a number of negroes on deck; so far as he could judge the boat was overloaded, more particularly so the number of deck passengers considered; from his observation deck passengers could be anything but comfortable. There was an excess of deck freight on that part of the vessel properly allotted to passengers; it seemed to be arranged without regard to the comfort of passengers; it was promiscuously placed; there was not sufficient space for the comfort of passengers; has travelled much on sail vessels, not so much on steam vessels; never before witnessed on any steamer so little regard paid to the comfort of passengers in the stowage of freight, and more particularly so as regards quantity. The negroes, so far as he observed, appeared to have suffered from exposure, and had *been annoyed.* It would not have been possible, from the manner of lading the vessel in such weather as they had, for the number of negroes brought over to have been comfortable on board the vessel; there was no place that he saw where they could have taken rest forward the shaft, in his opinion.

Cross-examined. Has never commanded steamboat; never made passage on this vessel; he went aboard gangway aft; he endeavored to go forward on forward deck, but could not on account of gangway being obstructed by negroes, boxes, bales, &c., &c., &c. The space where water usually passes through gangway, is not the place where passengers usually sleep. Judging from the vacant space that he observed not used for freight, but few could rest on it in comfort. Taking the entire passway from cabin to forward deck, the space between the freight and deck may have averaged from one to four feet. He believes, from his knowledge of sea life, that the boat was overloaded, too much crowded; so much so as to risk life and property improperly.

Dr. John Taylor, for Libellant.—Is acquainted with Dr. Rhodes; is a physician; was called by Dr. Rhodes to visit his sick negroes, in December last; made the usual inquiries as to cause producing sickness; my opinion is that the sickness of the negroes was caused by previous exposure to cold; heard Capt. Bunker's testimony, and states the circumstances detailed by him would tend to produce sickness among deck passengers; if persons have not room to sleep comfortable, but compelled to occupy recumbent positions, on a passage from N. O., it would be a powerful exciting cause to disease of which they were laboring under; if well treated, comfortable quarters, and well clad, and cold and wet avoided, the disease would probably have

been avoided; the herding together of negroes on the voyage, would be a powerful exciting cause of disease; four, five or six died of disease in Galveston; immediately after the boat arrived he was called to visit one of the negroes (Rhodes's negroes) in the Hospital; he died of cholera; he continued, as long as they remained on the Island, to attend all the negroes who were sick; the negroes remained in Galveston eight days; all were well but one when they left; he has since learned from Dr. Rhodes, all have since improved; the disease of which they died was cholera; Major Fauntleray, one of the cabin passengers, died of cholera, the second day after his arrival; the negroes first occupied Buckley's house; afterwards Edgar's old school-house, their bedding, clothing, as usual amongst negroes; we recommended Dr. Rhodes to procure other blankets, that the blankets they had might be burned; new ones were procured and the others burnt; the clothing and blankets were destroyed upon Dr. Lister's and my advice; did not see them destroyed; Buckley was about the premises all the time they occupied his house; he died of cholera; I attended him; he had *diarrhœa*, and the immediate cause of his disease was overwork in that state; Mrs. McMasters attended him, and died of cholera; he did not attend her; he had understood that for years Buckley had chronic diarrhœa; overwork would be liable to produce or excite such a disease; excessive cold or heat would be liable to produce cholera in cholera atmosphere, clad as they were clad; (the negroes) were not more than ordinarily clad; if blankets had been the best, would have ordered them to have been burned, because they might have produced or contained the disease; he would judge from their bulk there was enough for their comfort; he considered cholera contagious under certain circumstances; want of proper cleanliness, food, comfort, or exposure, confined atmosphere, when the disease prevails, would make it contagious; a person would not likely take the disease visiting others who had it, unless they labored under a predisposing cause; does not believe in the contagion of yellow fever; persons passing through a place where cholera prevails, would not be likely to take the disease if provided with proper comforts; if protected by tarpauling, with the usual bedding, &c.; sleeping on wharf would not be exciting cause; without these comforts it would; sleeping on ground one night, if there was plenty of blankets and comfortably clothed, would not produce cholera; after exciting cause, disease of cholera would usually be developed from two to five days or longer; when we presented Dr. Rhodes our bills, he said it was excessively small, and but for his great loss, would have paid us more, and if successful in this suit, would pay $500 more; we charged $434; he said it was worth $1,000; he looked upon it as a Texas promise; he did not and does not expect it; has no interest whatever in result of suit; Mr. Buckley might have died of cholera, if negroes had not been there; their being there has impressed my mind with the opinion that it produced cholera upon him; attending a sick person as nurse,

might be an exciting cause to cholera, not necessarily so; does not know the quantity of blankets and clothing burned; has known six cases of cholera in negroes arriving from New Orleans since; they belonged to Bowie; they came over on the Galveston; no case has come under his observation in another boat; he believes that within the last six months, some persons have died of cholera who came from New Orleans; has not known any case of cholera from Houston here, nor any of his own knowledge in Mississippi; it is not *entirely* in the power of one to keep clear of cholera when predisposing causes exist; predisposing causes, as stated on yesterday; want of proper clothing, food, ventilation, exposure, malaria, &c., &c., are exciting causes of cholera; excessive bodily exertion, want of sleep, great mental excitement, excessive fright, or any excess; these are all thought of at present; if there exists cholera atmosphere, the above causes would be apt to produce it, otherwise would not; it would produce cholera at all times in Asia, here in less degree on account of climate. The cholera atmosphere is produced by malaria, arising from rapid decomposition. Such is witness's opinion, although it is an unsettled question in the medical profession. His opinion is cholera is contagious. Such, however, is not the prevailing opinion of the medical profession, generally. Removal from Alabama to a cholera atmosphere would be a predisposing, not an exciting cause of cholera. A person removed from Alabama to New Orleans when cholera prevailed there, would not be apt to take cholera if he paid due attention to himself, and not be exposed. Fright from fear of cholera would predispose and excite the disease. There are causes producing cholera unknown to the medical faculty. If each of the negroes had three blankets, and under shelter from inclemency of the weather, the space they occupied free and well ventilated, exposure to cold would not likely produce cholera. Does not conceive that, under those circumstances, they could be cold. If there was a free circulation of air, sufficient to take off morbid exhalations, if no previous latent or developed disease existed, their being huddled together would not likely produce cholera. Sea sickness on a rough sea would be a partial exciting cause where predisposing causes existed, but not sufficient to produce it.

Lying down on wet mattress, is more liable to produce cholera than sitting on dry box. Predisposing and exciting causes to cholera do not exist at all times and places. From his knowledge of the construction of the boat, a free circulation of air would be less liable to produce cholera, than if it were confined—the ventilation of the boat, if the passages were left open, is sufficient to prevent liability to cholera. If in the month of December, the passage leading from cabin to forward was left free from freight 2½ feet wide, and if freight was stowed up to the roof on the outside of each gangway, and the other side stowed with freight, leaving a space from one to four feet from top of freight to ceiling, and 80 negroes occupied that space only, the ventilation would not be sufficient to prevent disease. If the

3/14.

negroes were confined to the space forward of the shaft there was not sufficient ventilation, but if they occupied the whole space from saloon to forward-deck, there was, provided there were no predisposing causes. The disease of which they died was not produced from want of ventilation. There must be a predisposing and exciting cause to produce cholera. Maj. Fauntleroy had great fear of cholera. It is a common observation that a person afraid of cholera, is sure to have it. Attended Maj. Fauntleroy in his last illness, and advised him of his situation, and of his probable death: was told by him that he had laboured under deranged bowels for three weeks. Had diarrhœa, which is a predisposing cause to cholera: he believes an exciting cause to his disease, was want of rest, attending to the sick negroes on the boat. His mind appeared to be greatly excited. Negroes are more superstitious and more easily excited by terror of disease, and are more liable to take cholera than whites.

Dr. George Lister, for libellant, sworn.—Is surgeon and physician; is acquainted with Dr. Rhodes; he brought to Galveston a number of negroes on board Galveston; saw one negro on boat that had cholera, and other negroes there; attended the negroes when here, professionally with Drs. Taylor and Dunkum; was with them more than they; some had cold, some bronchitis. One child, a yellow boy, died of affection of lungs; he considers cold, bronchitis, and all affections of the lungs, not predisposing causes to cholera.

From his observation, he believes that exposure on the boat in the passage, produced the disease of which the negroes died. Six died in Galveston; he believes that negroes might have been brought from N. O. at that time, free from disease, if they had not been improperly exposed; want of room to rest, to sleep, to walk about, and huddled together, exposed to cold, would tend to produce the particular diseases of which the negroes died. An exemption from all or any of these causes, would lessen the probability of attack from disease. An infected atmosphere is a predisposing cause to disease; fatigue in that state of atmosphere is an exciting cause; he thinks the negroes were the best clothed of any he had seen from the country; they were warmly and comfortably clad; the boat was greatly incumbered with freight, so much so that there was not space enough to have made a dozen comfortable. The floor was wet; had there been no more than twenty or thirty negroes in the space unoccupied by freight, &c., with predisposing causes for disease, that then existed in N. O. he would expect to be sick or die; if negroes had been kept dry and warm, and a dry place to sleep in, does not believe they would have been sick.

Cross-examined.—Does not know the degree of exposure before they were shipped; nor on the boat during the voyage, but founds his opinion on what he saw on the boat after their arrival; was invited by Crane, the captain, to go down and see the place the negroes occupied; this was the place where the negro was lying that had cholera; the one taken to the Hospital. The floor was wet; the

space as near as he can recollect was about from four to eight feet wide, from twelve to fifteen long. The space occupied was small and uncomfortable; this was the only place he examined; Crane told him that was the place they occupied; thinks this was soon after the arrival of the boat; did not examine the clothing until several days after, perhaps from two to five days; they were then at Edgar's house, the second place they had been at; the first place was Buckley's; his object in taking Toler to see the clothing arose from the Captain, Crane, saying they were badly clothed; he did not know Dr. Rhodes was a friend of his own; the clothing was not such as could be bought in town, and he wished to have a disinterested witness in anticipation of this suit; before this, whilst at Buckley's, he observed the clothing was good; they ordered clothing, blankets, &c., to be burned, and use chloride of lime, to prevent infection, not contagion; he told them to burn all; they did not burn all; they did not burn their good clothing, for he saw them have it afterwards; there was two or three well developed cases of cholera; one small child that he did not see; one child of four years old, of affection of lungs; the other of dysentery or colds; the child sick of complaint in the lungs, died at Marine Hospital, between two and five days after its arrival; its disease might have been contracted the day before it died; believes if child had been sent to the Hospital in time, it might have been saved; he had requested Dr. Rhodes to do so, which he did not do at the time; he told Dr. Rhodes so; it is difficult to say, certainly, whether it would have been so; exposure to wet, cold, want of sleep, want of room, &c. &c. he believes would have produced, or rather might have produced, all the diseases of which the negroes were affected and died; a cabin passenger might have taken cold by exposing himself on deck, and have died of cholera from it, as an exciting cause; does not believe cholera is contagious, but infectious; such is the general opinion of the medical world; his opinion is that the disease of which the negroes died, was the consequence of exposure in the space they occupied during the voyage; this space was pointed out to him by Captain Crane, and is the place before alluded to; the medical bill was $434 about, which was paid by Dr. Rhodes; Captain Crane said Rhodes was a mean man; his negroes were not clothed; and showed him the place to prove it was comfortable.

Dr. Dunkum for Libellant.—Knows Dr. Rhodes. Is a physician. He, Rhodes, brought on board Galveston last December upwards of fifty negroes; was first called to see sick negroes soon after the boat arrived; passed down the gangway from forward deck to front of cabin where sick negro was; was not room sufficient forward the ship for comfort, nor on board the boat where they were. He noticed the clothing of negroes on their arrival—it was good; appeared to be warm and comfortable; believes from his observation of the space the negroes occupied on the voyage, their want of comfort in such weather was the cause of all the disease he saw developed in the sickness of negroes.

If, on the contrary, they had been protected from the weather, and had sufficient space, and well clad, the disease might and would have been avoided, provided negroes were in health when removed on board. The huddling of a number of negroes together in the space witness saw, would have tendency to produce disease, cholera, or any other disease they had.

Cross-examined.—Went with Dr. Lister; Capt. remarked negroes had occupied a place he pointed out, which was in front of saloon. The sick negro was lying there exposed to north wind; passed through one passage only, did not notice particularly the space, but there was a great deal of freight. Does not know there was any space at all but in the passway, or there might have been space; it was difficult to pass along, crowd from shore passing. The passway from forward deck to saloon was so narrow that two persons passed with difficulty.

Dr. Ashbel Smith, for Libellant.—Cholera atmosphere is believed to be essential to the production of Asiatic or epidemic cholera. If a person in health is exposed to a cholera atmosphere, this exposure is a predisposing cause. If afterwards, or at the same time, he is exposed to wet, cold, want of sleep, or, in short, to anything that exhausts the nervous system, or impairs the general health, the latter exposure may prove to be an exciting cause or causes. To apply the remarks to the matter before the court, exposure in the atmosphere of New Orleans at the time mentioned in the testimony, would prove a predisposing cause: exposure to wet, cold, a draught of air, with want of sufficient accommodations to sleep in a recumbent posture, on board the Galveston as stated by the witnesses, would prove powerful exciting causes. Previous diarrhœa, great fear of the disease, would be powerful exciting causes, and exposure under such circumstances, to a cholera atmosphere, would prove an exciting cause of the disease. In general, cold, wet, currents of damp air, want of sleep, are the most powerful exciting causes; next in order may be placed excess in eating, drinking, or with women.

From the state of the healthfulness of New Orleans in the month of December last, as appears from the newspapers and other sources of information, cholera occurred there sporadically, but did not exist as an epidemic. At that time persons might pass through New Orleans without danger, provided they were well fed, well clad, and lodged. But there existed a cholera atmosphere in N. O., in sufficient intensity, enough of atmospheric predisposition, for persons exposed to wet, cold, want of sleep, to produce cholera.

From facts, as proven in the hearing of witnesses on this trial, witness is of opinion that the diseases which negroes had, and from which some of them died, was produced as a consequence of the voyage on board the Galveston, for want of space, exposure to cold, wet, etc.; considers the exposure alluded to as more detrimental to them than any morbid exhalations from the bodies of the negroes under the circumstances; has seen and practiced in cholera, in France, England,

and the Northern and Southern U. States, in the epidemic of 1832, and subsequently; has not noticed that there is any difference between steerage and cabin passengers as to sea sickness; ladies suffer more than men; has not known any instance where sea sickness has occasioned cholera. The most common cause of disease on vessels at sea, is a crowded state of passengers and want of free circulation of air. This applies to cholera as well as other diseases. Was in New Orleans about middle of December: as the health of the city then was, he would not consider that negroes would be liable to take disease in passing through if in good health, well clad, well fed, and protected from exposure. Horses, mules, &c., he has noticed, are tied short to prevent them from lying down, because when down they cannot be raised; lying on the deck they become numbed, and cannot walk when taken ashore. He believes that mules and donkeys are more injured from water in their ears than horses. The value of sound good negro fellow, 35 years old, a mechanic, is more valuable than a laborer. Negro woman 30 years old, $800.

Cold, united with sea-sickness, would predispose to cholera. From exposure, such as is described, on boat, if negro in good health and well clad would not be prostrate and pulseless from that cause alone in two hours, but would suppose such a state would have been produced by the development of latent disease. One subject to sea-sickness would be likely to have it during all the voyage.

Knows Galveston. If filled with freight in the gangway, the outsides to the ceiling, the other, leaving no more space than from one to four feet from top of freight to ceiling, would not be sufficient space for seventy or eighty negroes, and being so stowed would be liable to take cholera.

Travelled on Mississippi boats during last year; many cases of cholera occurred on board the boats, whites and well as black; two of them died. If these negroes had slept on the wharf the night before they left, and went on board wet, is of opinion it would be an exciting cause of cholera, and if they continued cold and wet on the voyage, would date the exciting cause from the first exposure.

Dr. Dunkum recalled for libellant.—Soon after the arrival of the boat, when he went to see the sick negroes lying on the after hatch, all the negroes he saw were warmly and well clad. The space showed him by Capt. Crane was not sufficient for comfort of negroes, and from what he observed would say, from quantity of freight, it must have been uncomfortable. Had never seen so much on a boat; a third less freight would have made it more comfortable. With the quantity of freight, and the space he saw vacant, does not think there was room for deck passengers. He only passed through one gangway. His profession has made it necessary for him to visit boats frequently on their arrival. Knows that the freight was piled in some places higher than his head. There was space between the freight and ceiling in most places; it was higher than the shaft. Dr. Rhodes said when he paid his bill he would pay his physicians

$500 if he succeeded in this suit. He saw no scarcity of blankets. There was plenty before he purchased. After that they used the new. They were all well clothed whilst at the house in Galveston. Has no interest in this suit. Does not expect to get one cent from Dr. Rhodes; is satisfied.

Wm. Taylor, overseer, recalled for libellant.—The clothing was thick woollen. Some of Hale's negroes stayed under his tents on the wharf Saturday night. It was up at 12 o'clock at night and then an hour before day in the morning. After that time no negro was on board the boat until they went on board when boat left. The white deck-passengers had the best place. With that exception, there was not, forward of the shaft, room for any negro to lie down. The negroes aft of the shaft belonging to Kirby and Haynie. None of Dr. Rhodes's was there, to his knowledge, until the morning they came in, when some of them went to assist the sick negroes lying on the hatchway. The tent was not taken down until half an hour before they left. The rain in the morning was in showers, not enough to make him wet, although he was exposed to it all the time. The weather faired off about eleven, and all got dry during the day or night they stayed at mouth of Mississippi River. There were two tarpaulings above and one spread on the wharf for negroes to lie on. They were not wet when they went on board; he was the last following them. Had conversation with Bener as detailed before. When he brought the negroes the sun was only half an hour high. Could not have found lodging for them. The clerk, Bener, told him they would be just as comfortable on the wharf, and could not go on board that night. Did not tell him comfortable lodgings could be had in the city. When himself and Dr. Rhodes went to see the place allotted to the negroes, there was no freight on board—afterwards this space was, in a measure, filled with freight. The distance from shaft to cabin he thinks is 10 or 15 feet. From shaft to forecastle deck, and of passage where door was, about 25 feet; to forecastle deck, 30 or 40 feet. Does not know the distance; may be more or less. The sliding door on lee side was never shut when he saw it. On the weather side saw it shut sometimes. The door to the gangway on weather side, ladies' cabin, the clerk would not permit him to shut.

Dr. Levi Jones, a witness for libellant, sworn, says: Was a passenger; thinks the freight in passway much greater than consistent with comfort of deck passengers; saw the negro that was taken into the cabin on deck; found him pulseless, exhausted from cold; did not think it cholera; heard the captain order the negro to be taken out of the cabin; Dr. Rhodes remonstrated; the captain in angry manner, "he must be taken out;" his opinion is, that humanity required the negro to be taken into the cabin; he would not object in such a case, passengers probably would; there were a large number of cabin passengers, and many ladies on board; thinks fear an exciting cause of cholera; thinks it probable that fear of cholera by pas-

sengers would excite disease, and make them unwilling to have a negro in the cabin supposed to have cholera; went with Rhodes to see one of his sick negroes; the negro was sitting erect on the freight in the gangway; there was no necessity for his sitting erect; there was room enough for him to lie down; this was the only gangway I passed through; I do not think it right to subject cabin passengers to the fear that a case of cholera from deck would occasion.

The following deposition of James A. Haynie was read in evidence at the hearing of this cause by the libellant, to wit:—

DISTRICT COURT OF THE UNITED STATES,
District of Texas:

Interrogatories to be propounded to James A. Haynie, a witness, residing at Ruttersville, in the county of Fayette, in the State of Texas, and district aforesaid, to be produced, examined, and cautioned and sworn to testify in a certain cause now depending in admiralty in said court, wherein Henry W. Rhodes is libellant against the steamship Galveston, &c., whereof John R. Crane now is, or late was master, and against said master and all other persons having or claiming to have any interest therein on the part of Henry W. Rhodes, libellant.

Interrogatory first: Do you know this libellant, Henry W. Rhodes, also the said John R. Crane, and the said steamship Galveston?

Interrogatory second: Was you or not in the city of New Orleans, in the State of Louisiana, on or about the 8th or 9th days of December, A. D. 1849, and did you or not see the said Crane and the said steamship Galveston in said port of New Orleans, about said 8th or 9th days of December; and did you not at the same time see this libellant, Henry W. Rhodes, at New Orleans, aforesaid, and at or near said steamship Galveston?

Interrogatory third: Did or did not said steamship Galveston sail from said port of New Orleans, on or about the 9th dayof December, 1849, with passengers and freight on a voyage from said port of New Orleans to the port of Galveston in Texas? Who was the captain or master of said steamship Galveston for and during said voyage? Did you or not perform said voyage at said time on board said steamship? Was this libellant, Henry W. Rhodes also on board said steamship during said voyage? Was there a large amount of freight on said steamship Galveston during said voyage? what kind of freight or loading did you see on the deck of said ship during said voyage? Did you or not see and notice among said freight on the deck of said vessel or steamship, on and during said voyage, barrels, boxes, crates, wagon-wheels, *jackasses*, jennies, and sheep? Was or was not said steamship so crowded with said freight that no sufficient space or room was left for said slaves?

Interrogatory fourth: Did this libellant, Henry W. Rhodes, have on board said steamship Galveston during said voyage a large num-

3607.

ber of negro slaves? If yea, when and at what time were said slaves taken on board said steamship Galveston? Were or were not said slaves kept on the wharf for a long time before they were taken on board said vessel? If yea, why were they so kept on said wharf, and not allowed to go on board said vessel earlier? and by whose orders and directions?

Interrogatory fifth: Have you any knowledge of what disposition was made, by the master, officers, and mariners of said steamship Galveston of the freight, luggage, bedding, &c. of said Henry W. Rhodes for the use and comfort of said slaves? Was it or not stowed or placed in the hold of said ship, or in such place or places that said slaves could not get at or use the same for and during said voyage? Was or was not the weather cold during all said voyage? Was or was not the proper place for slaves or steerage passengers so filled up with freight that said slaves had no room?

Interrogatory sixth: Was any proper or comfortable place provided for said slaves during said voyage, or any part thereof, or were said slaves huddled and crowded together very much? Had said slaves any room to lay down during said voyage? Were said slaves provided with room necessary to their health and existence during said voyage or any part of it? Were said slaves treated by the master and officers of said boat in a humane or brutal manner? Were they treated by said master, and others having authority on said steamship, as human beings ought and should be treated? Did or not said master of said steamship show a careless and wanton disregard of the comfort, lives, and health of said slaves?

Interrogatory seventh: Did any of said slaves so belonging to libellant die on or during said voyage? Were any of slaves sick during any part of said voyage? If yea, what, in your opinion, caused such deaths and sickness? State fully the conduct of said master and the officers of said steamship towards said slaves for and during the whole of said voyage, as far as you may know what that conduct was. State what space or room said slaves had to occupy on said voyage; and state how the other freight aforesaid was placed or stowed, and how and why said slaves had not more room. Answer all and each of said interrogatories as fully as you can, and state all you may know concerning shipment and transportation of said slaves from New Orleans to Galveston aforesaid.

JOHNSON & SWETT,
for Libellant.

I, James Love, Clerk of the United States District Court in and for the district of Texas, hereby certify that the foregoing is a true and correct copy of the original interrogatories propounded to James A. Haynie, as filed in this office in the case of Henry W. Rhodes, libellant, against the Steamship Galveston, &c.

JAMES LOVE,
Clerk.

THE UNITED STATES DISTRICT COURT,
District of the State of Texas.

In Admiralty.

HENRY W. RHODES
vs.
STEAMSHIP GALVESTON, &c.

Cross interrogatories to be propounded to James A. Haynie, a witness on the part of the libellant in the above entitled cause, now depending in the United States District Court of the District of Texas, wherein said Henry W. Rhodes had exhibited his libel, against said steamship Galveston, her tackle, apparel, and furniture, and John R. Crane, now or late master, and against all other persons having or claiming any interest therein.

First cross-interrogatory: What is your age, and what your calling or profession? how long have you resided at the place at which you now reside, and how long have you followed your present calling or profession? and where did you acquire your knowledge of the same? where was your last place of residence previous to settling at the place at which you now reside? when, where, and how did you first become acquainted with the libellant, Henry W. Rhodes, and when with John R. Crane, and said steamship Galveston.

Second cross-interrogatory: If in answer to the direct interrogatories, you state that you were in New Orleans, and started on a voyage to Galveston in the steamship Galveston, on or about the 9th day of December, A. D. 1849, then state what kind of weather was it the night previous to your leaving; and how long had you been in said New Orleans at that time, and what was the state of the health of the city? was not the cholera prevailing there at that time? when were the negroes referred to in the direct interrogatories taken on board said steamship, and from what State and when had said negroes been brought when they were so put on board. Did you or any other person than said libellant have negroes on board said steamship during said voyage? were not all of the negro passengers treated alike by the master and other officers and crew of said steamship during said voyage, and if not, then in what respect was there any difference in treatment, by whom and towards whom? are you the owner of any slaves, and if yea, how many?

Third cross-interrogatory: Do you know the tonnage of the steamship Galveston, or what number of barrels by measurement makes a full cargo for her? How many times have you made the trip between New Orleans and Galveston, and on what vessel or vessels? was it not cold and bad weather during most or all of said voyage from New Orleans to Galveston, were there not a good many white deck passengers on board of said steamship during said voyage? was there any sickness amongst the deck passengers except

of the negroes, which you supposed to belong to said libellant? and if yea, was such sickness anything more than usual sea sickness?

Fourth cross-interrogatory: Would you knowingly and willingly have permitted a gang of slaves belonging to yourself, or of which you had charge, to have remained without shelter on the wharf at New Orleans, during all the night of such a night as was that, next previous to the day that you left New Orleans, on said voyage? Could not comfortable shelter have been found on said night, or any other night in said city of New Orleans, for one hundred negroes, had a person made an effort to do so? On what day did you go on board of said steamship, at said New Orleans, to make said voyage, and when did the other passengers, deck and cabin, go on board.

Fifth cross-interrogatory: If, in answer to any of the direct interrogatories, you state that any negroes or other deck passengers were sick or died during said voyage, then state what were the symptoms attending such sickness or death. What number of cabin passengers were on said steamship during said voyage, and would you consider near the fire in the cabin of said steamship a proper place to put a negro deck passenger sick with the cholera? What do you call the deck of said steamship, and what space and privileges, in your opinion, were deck passengers entitled to on board of said steamship during said voyage. Was there any such class of passengers on board said steamship as steerage passengers? if yea, where was the place assigned to them? When were the articles to which reference is made in the fifth direct interrogatory, put on board said steamship, on what day, and by whose order or directions. Were you present at the time? if yea, what other person or persons were present.

Sixth cross-interrogatory: If in answer to any of the direct interrogatories, you undertake to state anything in relation to any improper, cruel, brutal, or unusual treatment by the master, other officers, or crew, of said steamship, toward any negro or negroes, which you supposed to belong to said Henry W. Rhodes, then state clearly, distinctly, and particularly, in what that treatment consisted; when, where, and how did the same occur; and from or by whom; where were you at the time; what other person or persons were present at the time; and what particular act or thing was done or said to any, and what person, and to any, and which of said negroes. State distinctly and particularly the time, place, and manner, in which every fact or thing occurred, in relation to which you make answer in your answer to your direct interrogatories; and who was present at such time and place.

Seventh cross-interrogatory: How long did you remain in Galveston after you landed from said steamship, from said voyage? Did libellant ever say anything to you about this suit, or about commencing this suit? what other person or persons than the libellant ever, and when talked with you about this suit, or about commencing the

same? and have you ever made any written statement about the matter, and to whom did you give it?

F. H. MERRIMAN, and
POTTER & POTTER,
Proctors for John R. Crane, Charles Morgan, John T. Wright, Israel C. Harris, Henry R. Morgan.

We object to the third, fourth, fifth, sixth and seventh direct interrogatories propounded by the libellant to the within named James A. Haynie, a witness on the part of the libellant.

F. H. MERRIMAN,
POTTER & POTTER,
Proctors for Respondents.

A true copy of the original now on file in my office.

Witness my hand this 19th day of January, A. D. 1850.

JAMES LOVE,
Clerk.

UNITED STATES OF AMERICA,
District of Texas.

COUNTY OF FAYETTE,
State of Texas:

Be it remembered, that on the 7th day of February, in the year of our Lord one thousand eight hundred and fifty, I, John S. Jones, a commissioner duly appointed and sworn by the United States District Court for the District of Texas, under and by virtue of the acts of Congress, entitled "An Act for the more convenient taking of affidavits and bail in civil cases depending in the courts of the United States," passed February 20th, 1812, and the act of Congress, entitled "An act in addition to an act, entitled an act for the more convenient taking of affidavits and bail in civil cases, depending in the courts of the United States," passed 1st March, 1817; and the act entitled an act to establish the Judicial Courts of the United States," passed September 24, 1789, did call, and cause to be and appear before me, at the house of James A. Haynie, in the county of Fayette, in the District of Texas, in the State aforesaid, James A. Haynie, to testify and the truth to say, on the part and behalf of the libellant in a certain suit or matter of controversy now depending and undetermined in the District Court of the United States for the District of Texas, wherein Henry W. Rhodes is libellant, and the steamship Galveston, her tackle, furniture, apparel, &c. and John R. Crane, and all others having any claim or interest therein are defendants.

And the said James A. Haynie, being about the age of 37 years, and having been by me first cautioned and sworn to testify the truth, the whole truth, and nothing but the truth, in the matter of contro-

versy aforesaid, I did carefully examine the said James A. Haynie, and he did thereupon depose, testify and say, as follows, viz:—

Answer to interrogatory first: I know the libellant, Henry W. Rhodes; I have known him many years; I have but a limited acquaintance with John R. Crane; I came one voyage with him on the steamship Galveston; he was pointed out to me as master of the vessel; with him I agreed for passage for self, servant, &c.

Answer to interrogatory second: I was in the city of New Orleans in the State of Louisiana, on both the eighth and ninth days of December, A. D. 1849; I saw said Crane and saw steamship Galveston in the port of New Orleans, on the 9th day of December, 1849; I also saw libellant, Henry W. Rhodes, on board said steamship Galveston, on the said 9th day of December, 1849.

Answer to third interrogatory: The said steamship Galveston did sail on the ninth day of December, A. D. 1849, from the port of New Orleans, in the State of Louisiana, on a voyage to the port of Galveston, in the State of Texas, with passengers and freight; the master of said steamship for and during said voyage was called Crane; he was so called by the officers of the said vessel and others on board her; I did perform said voyage at same time on board said steamship; Henry W. Rhodes, libellant, was also a passenger on board said vessel, on said voyage with me; the said steamship Galveston was very much crowded and filled with freight during said voyage; I heard the clerk of the boat say that she was loaded one foot deeper than usual; I saw crates, boxes, sacks, wagons, three jackasses, one jenny, and some forty or fifty sheep, together with other freight on the main deck of said steamship; the deck of said steamship was so much crowded and lumbered up with said freight, that there was no sufficient space or room for deck passengers either to lie down or to make themselves comfortable.

Answer to fourth interrogatory: This libellant, Henry W. Rhodes, had a large number of slaves on board said steamship during said voyage, sixty or more; I presume they were his; he claimed them, and seemed to control, and he said he owned them; said slaves were taken on board said steamship on Sunday morning, the 9th day of December, A. D. 1849, a short time before said steamship left the wharf at New Orleans; I saw the said slaves, or a part of them, on the wharf at which said steamship Galveston then lay, on the 8th of December, the day before the boat left; I do not know why they were so kept on the wharf, or by whose orders they were not permitted to go on board said vessel earlier.

Answer to fifth interrogatory: I was informed by Dr. Rhodes before he left the Mississippi River, that all his luggage was stowed away in the hold so he could not get at them for the use of his negroes; I saw the freight of said Rhodes in boxes, bundles, and bales, coming out of the hold of said vessel when she was discharging at Galveston; the said luggage was stowed away in the hold, and I do not think said slaves could get at or in it during said voy-

age; the weather from the time we left the Mississippi during the whole of said voyage, was cold and boisterous, and rainy a part of the time; the proper place for slaves or steerage passengers was so filled up with freight that said slaves had no room sufficient for their comfort.

Answer to sixth interrogatory: That portion of the boat usually allotted to deck passengers was so filled up and crowded with boxes, crates, barrels, hogsheads, hay, corn, wagons, sheep, asses, dogs, &c., that no proper place was left for said slaves to occupy during said voyage; and it is my opinion that if that part of the deck usually occupied by deck passengers had not have been so filled up with freight, that said slaves could have made themselves much more comfortable than they were; the said slaves were very much crowded together, they had no room to lie down; the only space left them was such places as they could get into between and on top of the freight; the room allowed said slaves, in my opinion, was not sufficient for their health and comfort during any part of said voyage; the inhumanity I saw said slaves receive from the officers or master of said steamer, was the neglect of said master and officers to furnish sufficient room and space for said slaves to occupy, and failure to protect them from the inclemency of the weather; said slaves were not treated as human beings ought and should be treated; I think the master of said vessel did disregard the health and comfort of said slaves, by stowing the decks of the vessel so full of freight, that there was no sufficient space left for said slaves or other deck passengers to sleep or exercise.

Answer to seventh interrogatory: I saw none of said slaves dead on board said vessel; I was informed two of them died. I saw some of said slaves sick during said voyage; it is my opinion that such death and sickness was caused by exposure on board said steamship on said voyage. The master seemed indifferent to said slaves; he paid no greater attention to them than to other freight. The only space or room I saw on the deck was two narrow passages left for gangways fore and aft; the engine room was full of freight, and all that space forward of the engine room was filled with sheep, asses, corn, hay, wagons, &c., and it was entirely owing to the manner in which the vessel was crowded with freight that said negroes had not sufficient room. When I first saw the said slaves, or a part of them, at New Orleans they were on the wharf at the said port of New Orleans with their luggage wagons, &c., and were standing on the wharf apparently waiting to get on board the said steamship. This was on Saturday, the eighth of December; the weather was warm and cloudy with, if I recollect aright, occasional showers. On the next morning when I saw the negroes, they were still on the wharf, protected from the weather by tarpaulin tents, and were very comfortably situated. The night had been rainy, but not cold; the said negroes looked dry, and I do not think they had been exposed to the weather during the

night; not more so at least, than their position on the wharf rendered inevitable.

In relation to the manner in which said steamship was crowded with freight when I went on board on Sunday morning: I looked about to see what sort of accommodations I could find for some slaves I had and intended bringing with me to Galveston. Upon examination I became satisfied that there was little or no chance for the slaves to make themselves comfortable for want of room, and I determined to take them into the cabin, and did so. I paid a cabin passage for them, that is one half the amount charged cabin passengers, and they came over in the cabin; there were several other negroes in the cabin as cabin passengers. It was my intention to have let my slaves go on deck, but upon application to some of the officers or crew to be shown a place for them, I was told to select a place on deck, but I could find no vacant place on deck for them, and after waiting about an hour to see if, when the freight was all arranged, I could find a place for them, the vessel got under way, and all seeming to be arranged for the voyage, yet I could find no vacant room for them. Hence, I determined to take them into the cabin, and did so. Respecting the conduct of the said crew and the officers of said vessel, I think Capt. Crane was cruel and inhuman in ordering the sick negro out of the cabin. Doct. Rhodes brought the sick negro into the cabin by permission of a number of the cabin passengers; there was no other place on the boat to warm him that I knew of; but if Capt. Crane was requested to remove the negro from the cabin by any of the cabin passengers, he was perhaps doing his duty to do so, but he should have done so in a gentlemanly manner, not in the rough, uncouth manner he did. I think Capt. Crane showed an entire regardlessness of the health, comfort, and convenience of the deck passengers generally, by taking so much freight on board his vessel that he could give them no room for necessary locomotion and rest.

JAMES A. HAYNIE.

Subscribed and sworn to before me this 7th February, A. D. 1850.

JOHN S. JONES,
Com'r U. S. D. C., D. T.

Answer to first cross-interrogatory: I am thirty-seven years old; I am a farmer; I have resided at my present place of residence eight years; and my last place of residence previous to coming where I now am, was the town of Camanche, in Trevvis County, Texas; I became acquainted with libellant, Henry W. Rhodes, in the State of Alabama, in the year 1832; he was then a director of a branch of the State Bank of Alabama, and a representative from Morgan county to the legislature. I first saw John R. Crane, to know him, in the city of New Orleans, on board the steamship Galveston, of which I was informed he was the master. On or about the 8th day

of December, 1849, I at the same time first saw the steamship Galveston.

Answer to second cross-interrogatory: I did made such voyage in said steamship; the weather was warm and cloudy, with occasional showers; the night previous to our departure was warm and rainy: I had at that time been in New Orleans six days, waiting for a steamship to come to Galveston. I do not know what the state of the health of the city was; I cannot say whether there was or was not cholera prevailing there at that time; something was said in the newspapers about cholera about that time, but I saw none, to my knowledge. Said negroes were taken on board on Sunday morning, the 9th day of December, 1849, a short time previous to the boat sailing on a voyage to Galveston; I saw a part of said negroes about the 28th of November, in the town of Aberdeen, in the State of Mississippi; they were then on their way to Mobile on board the steamboat Clara; I had there slaves on board said steamship on said voyage, one male and two females; one or two other persons than said libellant had slaves on board said steamship on said voyage; so far as I know, all the negro *deck* passengers were treated alike; those in the cabin were differently treated; I got my negroes into the cabin, and they were better treated than those on deck were or could be; among those negroes in the cabin I saw no difference in treatment; I am the owner of at present two slaves.

Answer to third cross-interrogatory: I do not know the tonnage of the said steamship Galveston, nor do I know what number of barrels by measure or otherwise is a full cargo for her. I have made the trip from New Orleans to Galveston twice; I made it once on board of the Columbia and once on the Galveston; on the trip on board the Galveston, the weather was warm and pleasant to the mouth of the Mississippi; a norther then sprung up, and continued to blow with violence until Wednesday morning, the time we got into the port of Galveston; a part of the time it was rainy; there were a good many white deck passengers on board said steamship on said voyage. There was other sickness than that among the negroes of libellant, the symptoms attending which was about the same as those of the sick negroes. A young man, by the name of Moore, was taken sick, and was removed from the deck to the cabin by his brother-in-law, and I believe thereby his life was saved; one other white deck passenger was sick, but I think came on board so.

Answer to fourth cross-interrogatory: I would not have left a gang of negroes by me owned, or of which I had charge, on the wharf without shelter, on such a night as was the night next preceding the day of the departure of said steamship, on said voyage; I think comfortable quarters could have been found on the night in question, or any other night, for one hundred negroes, if proper exertions were made to do so in the city of New Orleans. Myself and the other passengers came on board on Sunday morning, the day of her departure on said voyage, perhaps half an hour before she left the

wharf. I was informed that it was a rule of the boat not to permit passengers to go on board until the day of sailing.

Answer to fifth interrogatory: I saw no deaths; the symptoms attending the sickness of the two white men and the negro, who was brought into the cabin, were the same, so far as I could learn or know; cold extremities, pain in stomach and bowels, attended with dysentery. Do not know how many cabin passengers were on board said steamship on said voyage. There were more than there were berths for; under the circumstances, I would consider the cabin stove, or any other place on board said vessel, when the negro or any other deck passenger, or one of the crew, could be made warm and comfortable, as not improper, as by that means his life might be preserved and his sufferings alleviated. All that portion of the main-deck forward of the shaft, I think deck passengers are entitled to, or so much thereof as may be necessary for their convenience and comfort, to the exclusion of freight or anything else except ship's tackle; they are entitled to go to the bar, if any, to the clerk's office, water-closet, and to the captain's office, when necessary. I do not know whether there was or not any steerage passenger on board said steamship; I know of no distinction on said vessel between the steerage and deck passengers. I do not know when the articles referred to were put on board or by whose order; I saw the whole or a part of the articles belonging to said Rhodes coming out of the hold of said vessel when she was discharging at Galveston.

Answer to the sixth cross-interrogatory: I saw no brutal, cruel, or unusual or improper treatment of said slaves of said Henry W. Rhodes, than such as is already stated in my answers to direct interrogatories.

Answer to seventh cross-interrogatory: I remained in Galveston but a few hours; I left on the same day of my arrival for Houston; libellant told me he intended to bring this suit; no other person ever spoke to me about the commencing this suit since its commencement; I have heard frequently of it as a common report; I never made any written statement to any person concerning this suit; I had my sister, nine children and a young lady under my charge on board said vessel on said voyage, also three servants, yet I could make no objection to the sick negro being brought into the cabin as it was in the night some hours before day, and there were but few of the cabin passengers up at the time.

JAMES A. HAYNIE.

Sworn to and subscribed before me, this 7th day of Feb., A. D. 1850.

JOHN S. JONES,
Comm'r U. S. D. C., D. T.

The following deposition of John Kenedy was read in evidence at the hearing of this cause in behalf of the libellant, to wit:—

IN UNITED STATES DISTRICT COURT,
in and for the District of Texas:

In Admiralty.

HENRY W. RHODES
vs.
STEAMSHIP GALVESTON.

Interrogatories to be propounded to witness, John Kenedy, residing in the city of Houston, and County of Harris, in said State of Texas, said witness to be examined on the part of said Rhodes, libellant, and the answers to said interrogatories to be read in evidence on the trial of said cause.

1. Interrogatory first: Do you know the libellant, Henry W. Rhodes, and John R. Crane, master, formerly of said steamship Galveston, or any other party to this suit? Have you any knowledge of the steamship Galveston?

2. Interrogatory second: Did you or not on or about the 8th or 9th day of December, 1849 leave the city of New Orleans on board the said steamship Galveston on a voyage to the port of Galveston, in Texas? if yea, who was the master of said steamship Galveston during said voyage? Did or did not said Henry W. Rhodes perform said voyage on said vessel with you? State on what day of the month and week you left the port of New Orleans on said voyage?

3. Interrogatory third: Did or did not said Rhodes have a large number of negro slaves on board said steamship on and during said voyage? if yea, state about how many, and state when you first saw said negro slaves.

4. Interrogatory fourth: Did you or not see any of said negro slaves camped on the wharf in the city of New Orleans? if yea, state when you first saw them so camped, and how they were sheltered, and what condition they were in as to health.

5. Interrogatory fifth: Did you or not see said negro slaves come on board said steamship Galveston at New Orleans? if yea, state at what day and what hour they came on board. Did they or not seem in good health at the time they came on board?

6. Interrogatory sixth: Was or was not said steamship Galveston at the time she left New Orleans, and on and during said voyage, very heavily laden? Was or was not the deck of said steamship very much crowded with freight—if yea, how stowed and what description? What kind of freight, and how was the same stowed forward of the engine? Was the arrangement and stowage of said freight with a view to the comfort and convenience of deck passengers and negroes, or not? What space or room was left for deck passengers and negroes? What space or room was allotted to said negroes?

7. Interrogatory seventh: Were any of said negroes sick during said voyage? and did or not said master of said vessel know of such sickness? What was the cause, in your opinion, of such sickness

among said slaves, if any existed? And did said master, or any other officer on board of said vessel, attempt to render any aid or comfort of said slaves? Might or might not the condition of said slaves been rendered much more comfortable than it really was? Describe the conduct and bearing of said master towards said slaves and the deck passengers.

8. Interrogatory eighth: What was your means of information in relation to the condition of said slaves on said passage, and the conduct and deportment of said master towards them? Was you a deck or cabin passenger? State fully all you may know in relation to the transportation of said slaves on said vessel on and during said voyage, and the conduct of the master in relation thereto.

JOHNSON & SWETT,
for Libellant.

I, James Love, Clerk of the District Court of the United States in and for the District of Texas, do hereby certify the foregoing to be a true and correct copy of the interrogations propounded to John Kenedy, as on file in this office in the case of Henry W. Rhodes against Steamship Galveston, John R. Crane, master.

JAMES LOVE,
Clerk.

UNITED STATES DISTRICT COURT,
District of the State of Texas:

In Admiralty.

HENRY W. RHODES
vs.
STEAMSHIP GALVESTON, &c.

Cross-interrogatories to be propounded to John Kenedy, a witness on the part of the libellant in the above stated cause, which is now depending in said United States District Court for the District of Texas.

First cross-interrogatory: What is your age? What is your occupation, trade, or calling? How long have you followed the same, and where did you learn it? How long have you resided at the place at which you now are, and what was your last place of residence? Are you a physician?

Second cross-interrogatory: Have you travelled much on steamboats—and, if yea, when and where? How many times have you made the trip or voyage between the ports of New Orleans and Galveston, and on board of what vessel or vessels, and when, and did you ever make any other sea-voyage?

Third cross-interrogatory: Where, when, and how did you become acquainted with Henry W. Rhodes and John R. Crane, or either of them, and when did you first see and know the steamship Galveston? How many barrels of freight, and how many cabin and

deck passengers would make a proper cargo for said steamship on a voyage from New Orleans to Galveston?

Fourth cross-interrogatory: Did you make a trip on said steamship Galveston from New Orleans to Galveston between the 8th and 12th of December last? Did you see said Rhodes feed any of the negroes on board of said steamship during said voyage? Were you or any of the white deck passengers sick during said voyage? How many white deck passengers, and how many negroes were on board of said steamship during said voyage? Were any of the white deck passengers during said voyage sick of anything more than of usual sea-sickness, and did they have any greater or other privileges than the negro deck passengers? Did not one of said white deck passengers die at or about the city of Houston within a few days after the termination of said voyage—if yea, of what did he die? How long had you known him, and what was his name? Was it not cold and bad weather during all or the most of said voyage?

Fifth cross-interrogatory: Did you have any quarrel or dispute with the master, officers, or crew of said steamship during said voyage, or was you treated in any improper manner by any of them? who first spoke to you in relation to your testimony in said cause, and when?

Sixth cross-interrogatory: If, in answer to any of the direct interrogatories, you pretend to state any matter or thing in relation to the conduct or acts of the master, other officers or crew of said steamship, then state particularly everything connected in any way with the same; when and where did it occur; toward whom, and who was present; state fully.

F. H. MERRIMAN and
M. M. POTTER,
Proctors for John R. Crane, Master, and Charles Morgan, Israel C. Harris, and Henry R. Morgan, owners of the steamship Galveston.

I, James Love, Clerk of the District Court of the United States in and for the District of Texas, do hereby certify the foregoing to be a true and correct copy of the cross interrogatories filed in this office, to be propounded to John Kenedy in the case of Henry W. Rhodes *vs.* Steamship Galveston, John R. Crane, master, on the part of libellant.

JAMES LOVE, *Clerk.*

UNITED STATES OF AMERICA,
District of Texas, County of Harris, ss.

Be it remembered, that on the first day of April, in the year of our Lord one thousand eight hundred and fifty, I, John S. Jones, a commissioner duly appointed by the District Court for the District of Texas, under and by virtue of the acts of Congress, entitled "An Act for the more convenient taking of affidavits and bail in civil

cases depending in the Courts of the United States," Feb. 20, A. D. 1812, and the act entitled "An Act in addition to an Act entitled an Act for the more convenient taking of affidavits and bail in civil causes depending in the Courts of the United States," passed March 1st, 1817, and the act entitled "An Act to establish the Judicial Courts of the United States," passed Sept. 24th, 1789, did call and cause to be and personally appear before me, at the house of John Kenedy, in the city of Houston, in the county of Harris, in the said District of Texas, in the State aforesaid, John Kenedy, to testify and the truth to say on the part and behalf of the plaintiff or libellant in a certain suit or matter of controversy now depending and undetermined in the District Court of the United States for the District of Texas, wherein Henry W. Rhodes is plaintiff, and the steamship Galveston, her tackle, furniture, apparel, &c. and John R. Crane, and all others having or claiming any interest, are defendants. And the said John Kenedy, being about the age of thirty years, and of sound mind, and having been by me first cautioned and sworn to testify the truth, the whole truth, and nothing but the truth, in the matter of controversy aforesaid, I did carefully examine the said John Kenedy, and he did thereupon depose, testify, and say as follows:—

1. Answer to interrogatory first: I know that a man by the name of Crane was in command of the steamship Galveston, in the month of December, A. D. 1849. I have no acquaintance with Mr. Henry W. Rhodes, the libellant.

2d. Answer to second interrogatory: I did, on or about the 8th or 9th day of December, A. D. 1849, leave the city of New Orleans on board the steamship Galveston on a voyage to the port of Galveston in the State of Texas. Capt. Crane had command of the said steamship Galveston during said voyage. I do not know whether Henry W. Rhodes, the libellant, was or was not on board said steamship during said voyage. I do not now recollect the day of the month on which said vessel left the port of New Orleans, but it was on Sunday, and I think the 9th.

Answer to third interrogatory: There were a large number of negro slaves in board said steamship during said voyage; who they belonged to, or the number, I do not know. I first saw said negro slaves in the port of New Orleans. Some of them I first saw camped on the wharf near the said steamship Galveston on the day previous to her departure from said port of New Orleans upon said voyage.

Answer to fourth interrogatory: As before stated, I first saw a number of the slaves who came in said steamship, on said voyage, camped on the wharf at which the said steamship Galveston lay in the port of New Orleans on Saturday evening the day previous to the day of the departure of said steamship from said port of New Orleans upon said voyage. They were sheltered from the weather by awnings or canvas tents. They were sufficiently protected from

the weather. As to the actual state of their health I cannot speak; none of them seemed to be sick when they came on board.

Answer to fifth interrogatory: I saw said slaves come on board said steamship on Sunday morning, I think about 10 o'clock the day on which said steamship left the said port of New Orleans upon said voyage. I did not notice that any of them were unwell or in bad health at the time; if such was the case it escaped my observation.

Answer to sixth interrogatory: Said steamship seemed to me to be very heavily laden. The decks were very much crowded and encumbered with freight; so much so that it was difficult to get about from one part of said vessel to another. That portion of the vessel forward of the engine and offices was filled with wagons, sheep, asses, &c. The gangways or passages leading forward from the saloon, on each side of the engine, was filled with hogsheads, boxes, barrels, sacks, wagons, beds, &c., nearly or quite up to the deck or ceiling, leaving only a narrow space in each gangway wide enough for one person to pass along. The freight seemed to be crowded on the decks without any referrence to the convenience or comfort of the deck passengers. The deck of the vessel (I mean all that portion of the deck usually occupied by deck passengers) was so filled up and crowded with freight of various kinds that nothing like convenience or comfort was to be found. The only vacant space I saw on the forward part of said vessel was a small space around the capstan of about ten feet square, which seemed to be left so vacant with a view to the use of the capstan, and for the purpose of keeping hawsers and anchors, chains, &c., clear. This small space and the two narrow passages before mentioned in each gangway were the only vacant places left on the forward part of said vessel. No other vacant space or place was left on that portion of the deck forward of the saloon for deck passengers to occupy. They were compelled to stow themselves on the top of and among the freight as they best could. I do not know that any particular space or place was allotted to the negro deck passengers; some of them were crowded together on the main hatch, and some of them crowded up on top of the freight in the gangways; they were very much exposed to wet and cold. When the negroes came on board said steamship they were placed on the bow of said vessel in the vacant space around the capstan. Most, if not all of them, remained there during all of the day on which we left New Orleans (Sunday) without any shelter whatever, and were completely drenched with rain. About night time, as said slaves (those who had been out on the forward part of the vessel) were coming aft, attempting to get under such shelter as there was in the gangways, I heard one of the crew or seamen belonging to said steamship order them out of the passages.

Answer to seventh interrogatory: Some two or three of said negro slaves were taken sick during said voyage; I do not know whether Captain Crane was or was not aware of such sickness; the mate and the clerk of the vessel were aware of such sickness; it is my

opinion that such sickness of said negroes was caused by exposure to the weather whilst they were on board said steamship Galveston; neither the master, the mate, clerk, or any of the officers of said steamship rendered, or attempted to render any aid, assistance, or comfort to said sick negroes within my knowledge. I do not know that said negroes could have been rendered much more comfortable on the deck of said vessel, by any arrangement of the freight, than they were; there was so much freight on deck that I do not know or think that sufficient space for said negroes could have been made on the deck by any other arrangement of the freight; had they been furnished with more covering or blankets they certainly would have been more comfortable than they were. The master of said steamship gave no attention whatever to the deck passengers; I did not see him on the deck among the deck passengers, during said voyage.

Answer to eighth interrogatory: I was a deck passenger on board said vessel during said voyage, and during said voyage the negro deck passengers, or most of them, were under my observation; I could not well avoid seeing them. The place which the negroes were compelled to occupy on and during said voyage was very much exposed to the weather; all that portion of the deck sheltered from the weather was stowed full of freight.

JNO. KENEDY.

Answer to first cross-interrogatory: I am nearly 30 years old; I am by trade a baker; my present business is that of a merchant, or trader. I learned how to bake bread, and to attend to my business generally, in my early youth, in the County Armagh in the Emerald Isle, and what little I have got, I have made by a constant attention to my own affairs; I have sojourned in this place nearly eight years; I came from New Orleans to this place; I am not one of the healing art.

Answer to second cross-interrogatory: I have travelled on sea a great deal, both on sail and steam vessels; I have crossed the Atlantic once, and I have made one passage from Galveston to New York, on board a ship, and one passage from New York to New Orleans, in the steamship Falcon; I have made the voyage some six or seven times, between the ports of Galveston and New Orleans; I have travelled on the steamships Neptune, Yacht, the Portland, and the Galveston, and on the Colonel Woods between those places, and I will add that I have never travelled at sea on any vessel, either sail or steam, where there was so little accommodation, and such a want of attention to the comfort of passengers, as I saw on said steamship Galveston during said voyage.

Answer to third cross-interrogatory: I am not acquainted with Henry W. Rhodes; I have spoken to John R. Crane; I saw him in command of the steamship Galveston; I first saw the steamship Galveston in the year 1846; I do not know what number of barrels of freight, or what number of deck or cabin passengers would make

a complete cargo for her; that, I suppose, depends entirely upon her capacity to carry the one, and to accommodate the other with comfort. My opinion is that said steamship had on board, during said voyage, more freight than she could prudently carry—and I know she had more passengers than could find comfortable accommodations on board of her.

Answer to fourth cross-interrogatory: I did make a trip on said steamship Galveston from New Orleans to Galveston, between the 8th and the 12th of December last; I saw said negroes (the deck passengers) eating; a black man gave them their food; I saw no food given them by any white person; I was not sick; several of the white deck passengers were sick, with ordinary sea sickness; one white deck passenger was taken sick on board said steamship during said voyage, and in my opinion died from the exposure he suffered on board said vessel, during said voyage; I never counted the deck passengers, either white or black; there was more of them on board than there was either room or comfort for. I do not know that the white deck passengers had any other or greater privileges than had the black ones—they, however, selected and appropriated the most comfortable places to be found; the negro passengers had to put up with such accommodations as they could get; the best and most comfortable place to be found on the deck was not fit for a dog to occupy. As before stated, one of the deck passengers did die; he died at this place (Houston) within a few days after the termination of said voyage; his name was James McIntu; I knew him about seven years; the weather was wet but warm during the first day from New Orleans. The vessel anchored at, or near the mouth of the Mississippi, on the first night out, and before she left her anchorage it became cold and blustering, and so continued during most of the voyage.

Answer to fifth cross-interrogatory: I had no quarrel or dispute with the master or any of the crew of said steamship Galveston, during said voyage; none of them interfered with me; they permitted me to shift about and do the best I could for myself; I was never spoken to by any person in relation to my testimony in this case; I never knew until the present time that I would be called on to testify in the cause.

Answer to sixth cross-interrogatory: All the circumstances connected with the matter in controversy, now recollected are set out in my foregoing answers.

JNO. KENEDY.

Interrogatories and cross-interrogatories propounded to George W. Dorris, Wm. G. Martin, J. E. Kirby, John Hale, H. P. Hale, and J. E. Wilson, witnesses to be produced and examined in behalf of libellant.

UNITED STATES DISTRICT COURT,
District of Texas:

December Term, 1849.

To John S. Jones: Know ye, that reposing special trust and confidence in your integrity and ability, we hereby authorize you, and require you, to cause to come before you George W. Dorris, H. G. Martin, J. E. Kirby, John Hale, H. P. Hale, and J. E. Wilson, James A. Haynie, and R. C. Richardson, and them truly examine on oath, touching and concerning certain matters and things in a cause now depending in said Court in Admiralty, wherein Henry W. Rhodes is libellant, and the Steamship Galveston, her tackle, apparel, and furniture, &c., and John R. Crane, now or late master thereof, and all others having or claiming any interest therein, are defendants.

And the said examination, so taken and reduced to writing, you certify under your hand and seal, and return enclosed to this office without delay, to be read in evidence on the trial of said cause; and return also this writ.

Witness, the Honorable John C. Watrous, Judge of said Court, and seal of Court affixed in the city of Galveston, on this eighteenth day of January, one thousand eight hundred and fifty, and the seventy-fourth year of the Independence of the United States of America.

[SEAL.] JAMES LOVE,
Clerk.

DISTRICT COURT OF THE UNITED STATES,
District of Texas:

In Admiralty.

HENRY W. RHODES
vs.
STEAMSHIP GALVESTON, her tackle, apparel, and furniture, JOHN R. CRANE, Master, &c.

Interrogatories to be propounded to George W. Dorris, a witness residing at La Grange, in Fayette County; and to H. G. Martin, a witness residing at the city of Houston, in the County of Harris; and to witness J. E. Kirby, residing at or near Rock Island, in the County of Austin, all in the State of Texas, and District aforesaid; and to witness John Hale, H. P. Hale, witnesses residing at Montgomery, in the State of Alabama, but now in the County of Washington or ——— County, in the State of Texas; and J. E. Wilson, of Brazoria County; all and each of the aforesaid witnesses to be produced, examined, cautioned, and sworn to testify in a certain cause now depending in admiralty in said Court, wherein Henry W. Rhodes is libellant against the steamship Galveston, her tackle, apparel and furniture, whereof John R. Crane now is or late was master, and against said master, and all other persons having or claiming any

interest therein, on the part of Henry W. Rhodes, libellant: each of said witnesses is required to answer each and every of the following interrogatories.

Interrogatory first: Did you or not on or about the 8th day or the 9th day of December, or some day in December, A. D. 1849, start on and to make and to perform a voyage from the port of New Orleans, in the State of Louisiana, to the port of Galveston, in the State of Texas, on board the steamship Galveston? And did or did not libellant, Henry W. Rhodes, perform said voyage on board said steamship Galveston in company with you and others? If yea, on what day of the week and what day of month did said steamship Galveston arrive at the port of Galveston?

Interrogatory second: Did or did not said Henry W. Rhodes have a large number of negro slaves on board said steamship during said voyage from said New Orleans to said Galveston? If yea, about how many? and where did you first see said slaves to notice them?

Interrogatory third: Where and at what time were said slaves taken on board said steamship Galveston? How long before said vessel sailed or pushed off from the wharf? How long had said slaves been on the wharf before they were taken on board said steamship? Were said slaves on the wharf at which said steamship Galveston then lay? While said slaves were on said wharf, was any other freight taken on board of said steamship? Did you notice whether a large amount of freight was so put on board while said negro slaves were waiting on the wharf? Was or was not the luggage, bedding, and other things belonging to and necessary to the comfort and health of said negro slaves, taken, by the orders of the master of said steamship, or the officers and mariners thereof on board said ship, and stowed away or put in such place or places that said slaves could not get at, or use the same, on or during said voyage? How long were such luggage, bedding and other things taken on board before said slaves were taken on board?

Interrogatory fourth: Was or was not notice given by the master or agents or clerk of said steamship Galveston, that said ship would leave New Orleans for Galveston, in Texas one day earlier than said steamship actually left?

Interrogatory fifth: Did or did not said steamship Galveston continue to take and receive freight on board until and up to a few minutes before said vessel left the wharf at New Orleans on said voyage? What was the nature and character of said freight? Were any jackasses, or jennies and sheep taken on board said vessel before said slaves were permitted to go on board? and while said slaves were on said wharf? And was or was not said vessel overladened?

Interrogatory sixth: Was or was not said vessel filled and crowded with boxes, barrels, crates, *jackasses*, sheep, and other freight, so that said slaves could not have, and did not have sufficient room and space to lie down upon, move about, or even stand upon? Describe

the manner the freight was stowed and placed, and the space left for said slaves to occupy, as near and accurately as you can.

Interrogatory seventh: Did or did not said slaves have any suitable and proper place to occupy, on board of said vessel? Did you notice in particular the space or place on said steamship occupied by said negro slaves? If yea, were or were not said slaves crowded together in a very small and narrow space, and were not said slaves confined thereto while on said voyage?

Interrogatory eighth: Were any of said slaves taken sick during said voyage? Did any of them die on said voyage? If yea, what, in your opinion, caused such sickness and deaths? State your reasons for your opinions, and the facts upon which said opinions are based. Did you see libellant with a negro man, who had nearly perished? Did he, said Rhodes, carry or have carried a negro man near the stove in the cabin, some time during the night, before the day you arrived at Galveston? What was the condition of said negro at that time? And what did Captain Crane say when he first learned that said negro was near the stove? State all that you heard said between said Rhodes and said Crane, in relation to said negro.

Interrogatory ninth: How were said slaves treated during said voyage? Did the captain and officers of, and on board said steamship, treat said slaves with ordinary care and humanity during said voyage? Did or did not said Crane, master of said ship, and the officers thereof, treat said slaves with harshness and cruel carelessness and neglect, on, and during said voyage? And do you doubt that some of said slaves died from the want of a proper place for said slaves, and by reason of such carelessness and the want of ordinary care and attention, on part of the master or officers of said ship?

Interrogatory tenth: Were or were not said slaves rendered very uncomfortable, and greatly exposed, by reason of a great amount of freight and other things on board said ship? And would or would not such exposure and suffering so caused said slaves, be exceedingly liable to injure their health, and endanger the lives of said slaves?

Interrogatory eleventh: Were any of said slaves ill or sick on said passage? If yea, what was the conduct of said Crane on such occasion? Did said Crane, the master of said ship, aid or offer to aid any slave so sick or ill? Or did he facilitate others in aiding or relieving said slaves, or any one thereof, while so ill? Or did said Crane, as master of said vessel, unnecessarily expose any slave while so ill and sick? Were or were not said slaves treated by said master and officers of said ship, with gross and brutal carelessness and inhumanity? And did said Crane not prevent others from aiding and relieving said slaves, so ill?

Interrogatory twelfth: Were or were not said slaves, when you first saw them, in apparent good health and condition? And were they, or not, greatly injured by reason of not having a place to occupy on said vessel, suitable for slaves? And the exposure, and cruel neglect and treatment of the master and others, having autho-

rity under him, of said ship? What was the general conduct of the master of said ship, towards said slaves? You will also please state all you may know with reference to the transportation of said slaves to Galveston, on said steamship. The conduct of the master, officers and mariners of said ship, towards said slaves, and your reasons of knowledge or information.

JOHNSON & SWETT,
For Libellant, Rhodes.

I, James Love, clerk of the U. S. District Court, in and for the District of Texas, hereby certify that the foregoing is a true and correct copy of the original interrogatories to be propounded to George W. Dorris, H. G. Martin, J. E. Kirby, J. Hale, H. P. Hale, and J. E. Wilson, as filed in this office, in the case of Henry W. Rhodes, libellant, against steamship Galveston, &c.

JAMES LOVE,
Clerk.

THE UNITED STATES DISTRICT COURT,
District of the State of Texas:

In Admiralty.

HENRY W. RHODES
vs.
STEAMSHIP GALVESTON, &c.

Cross-interrogatories to be propounded to George W. Dorris, H. G. Martin, J. E. Kirby, John Hale, H. P. Hale, and J. E. Wilson, witnesses on the part of the libellant in the above entitled cause now depending in the District Court of the United States for the District of the State of Texas, wherein the said Henry W. Rhodes has exhibited his libel against said steamship Galveston, her tackle, apparel, and furniture, and John R. Crane, now or late master, and against all other persons having or claiming any interest therein, each of the following cross-interrogatories being required to be answered by each of said witnesses.

First cross-interrogatory: What is your age, and what your calling or profession? How long have you resided at the place at which you now reside? Where was your last place of residence previous to settling at the place at which you now reside, and how long have you followed your present calling or profession? When, where, and how did you first become acquainted with the libellant, Henry W. Rhodes, and when with John R. Crane and said steamship Galveston?

Second cross-interrogatory: If, in answer to the first direct interrogatory, you say that you started on a voyage from New Orleans to Galveston on the said steamship Galveston, on the 8th or 9th day of December, A. D. 1849, then state on which of said days said steamer left New Orleans on said voyage. What kind of weather was it when you so left, and what kind of weather was it the night previous?

How long had you been in said New Orleans at that time, and what was then the state of the health of that city? Was not the cholera prevailing there at that time?

Third cross-interrogatory: When were the negroes referred to in the direct interrogatories, taken on board of said steamship, and from what State, and where had said negroes been brought when they were so put on board? Did you or any other person than said libellant have any, and how many negroes on board of said steamship during said voyage? if yea, when and where were they taken on board? were not all of the negro passengers treated alike by the master and other officers and crew of said steamship during said voyage, and if not, then in what respect was there any difference in treatment, by whom and towards whom? Are you the owner of any slaves, and if yea, how many?

Fourth cross-interrogatory: Would you knowingly and willingly have permitted a gang of slaves belonging to yourself, or of which you had charge, to have remained without shelter on the wharf at New Orleans during all of the night of such a night as was that next previous to the day that you left New Orleans on said voyage? Could not comfortable shelter have been found on said night, or any other night, in said city of New Orleans for one hundred negroes, had a person made an effort so to do? On what day did you go on board said steamship at said New Orleans to make said voyage, and when did the other passengers, deck and cabin, go on board? How long before said steamship left said New Orleans did you contract for or engage your passage for said voyage, and did you suppose, or have any reason to suppose that so soon as you had made such contract or engagement the master, agents, or owners of said steamship were or would be precluded from taking any other or more passengers or freight for said voyage?

Fifth cross-interrogatory: Do you know the tonnage of the said steamship Galveston, or what number of barrels by measurement makes a full cargo for her? How many times and when have you made the trip between New Orleans and Galveston, and on what vessel or vessels? Was it not cold and bad weather during the most or all of said voyages from said New Orleans to Galveston? Were there not a good many white deck passengers on board of said steamship during said voyage? Was there any sickness among the deck passengers except of some of the negroes which you supposed to belong to said libellant, Henry W. Rhodes, and if yea, what kind of sickness; was it anything more or other than usual sea-sickness?

Sixth cross-interrogatory: If, in answer to any of the direct interrogatories, you state that any of the negroes which you supposed belonged to said libellant, Henry W. Rhodes, were sick or died during said voyage, then state what were the symptoms attending such sickness or deaths; what number of cabin passengers were on board of said steamship during said voyage; and would you consider near the fire in the cabin of said steamship a proper place in which

to put a negro deck passenger sick with the cholera or any other disease?

Seventh cross-interrogatory: Did you see or know of said Rhodes having taken a sick negro into the cabin or saloon of said steamship during said voyage? would you have taken such a liberty without the permission of the master or officers of said steamship? and had you had such permission, would you have expected the cabin passengers to be pleased or satisfied with such an act? Do you think the master or officers of said steamship would have had a right to put a sick negro into the cabin in such manner as was done by said Rhodes? what portion of said steamship did you or do you consider as the proper place for deck passengers? What space and privileges, in your opinion, were deck passengers entitled to on board said steamship during said voyage?

Eighth cross-interrogatory: Did you see any negro luggage, bedding and other things which you supposed belonged to said Rhodes, put on board said steamship at said New Orleans? If so, was said Rhodes present at the time, or any person representing him? And did he or they know at the time what was done with said articles, or where they were put by the master, officers, or crew of said steamship? And on what day were said articles put, or taken on board of said steamship? Did you see said negroes when they went on board of said steamship? If yea, how did they look; were they not then wet, ragged and dirty?

Ninth cross-interrogatory: If in answer to any of the direct interrogatories, you undertake to state anything in relation to neglect, improper or cruel, brutal, or unusual treatment by the master, other officers or crew of said steamship, toward any negro or negroes which you supposed belonged to said Henry W. Rhodes, then state distinctly, clearly, and particularly, in what that treatment consisted; when, where, and how did the same occur, and from or by whom; where were you at the time? What other person or persons were present at the time; and what particular act or thing was done, or said by any, and what person, and to any and which of said negroes? State distinctly and particularly the time, place, and manner in which every fact or thing occurred, in relation to which you make answer, in your answers to the direct interrogatories; and who was present at such time and place, and also state whether or not you saw said Rhodes, or his agent, furnish said negroes with anything to eat during said voyage; and if yea, what kind of food was furnished; when and by whom, and who was present at the time.

Tenth cross interrogatory: After the said steamship left the mouth of the Mississippi River on such voyage, was not the weather continually boisterous and rough? and did it not require the continued and particular care of said John R. Crane, master, in looking out for the safety of said steamship, her passengers and cargo? And did not said John R. Crane faithfully perform his duty as such master of said steamship?

Eleventh cross-interrogatory: When and where did you first hear of this suit? How long did you remain in Galveston after you landed from said steamship from said voyage? what other person or persons than the libellant ever, and when, talked with you about this suit, or about commencing the same; and have you ever made any written statement about the matter? if yea, to whom did you give it, and at whose request?

F. H. MERRIMAN,
POTTER & POTTER,
Proctors for John R. Crane, Master, and Charles Morgan, John T. Wright, Israel C. Harris, and Henry R. Morgan, owners of the Steamship Galveston.

We object to the third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh, and twelfth direct interrogatories propounded by libellant to all of the before named witnesses.

F. H. MERRIMAN,
POTTER & POTTER,
Proctors for the Respondents.

I, James Love, Clerk of the court aforesaid, certify this to be a true copy of the original now on file in my office.
Witness my hand this 22d day of January, A. D. 1850.

JAMES LOVE, *Clerk.*
E. JONES, *D. C.*

The following deposition of George W. Dorris was read in evidence at the hearing of this cause, on behalf of the libellant, to wit:—

UNITED STATES OF AMERICA,
District of Texas:

COUNTY OF FAYETTE,
State of Texas:

Be it remembered, that on this sixth day of February, in the year of our Lord one thousand eight hundred and fifty, I, John S. Jones, a commissioner duly appointed by the United States District Court for the District of Texas, under and by virtue of the acts of Congress, entitled "An act for the more convenient taking affidavits and bail in civil causes depending in the courts of the United States" passed February 20, 1812; and the act of Congress, entitled "An act in addition to an act, entitled 'an act for the more convenient taking affidavits and bail in civil causes depending in the courts of the United States,'" passed March 1, 1817; and the act, entitled "An act to establish the judicial courts of the United States" passed September 24, 1789—did call and caused to be and personally appear before me, at the house of Mr. Flack, in the county of

Fayette, in district of Texas, in the State aforesaid, George W. Dorris to testify, and the truth to say, on the part and behalf of the libellant in a certain suit or matter of controversy now depending and undetermined in the District Court of the United States for the District of Texas, wherein Henry W. Rhodes is libellant, and the steamship Galveston, her tackle, furniture, apparel, &c., and John R. Crane, and all others having or claiming any interest therein, are defendants.

And the said George W. Dorris, being about the age of thirty-seven years, and having been by me first cautioned and sworn to testify the truth, the whole truth, and nothing but the truth in the matter of controversy aforesaid, I did carefully examine the said George W. Dorris, and he did thereupon testify, depose, and say as follows, to wit:—

Answer to interrogatory first: I did on or about the eighth or ninth day of December, A. D. 1849, start on and to make a voyage from the port of New Orleans, in the State of Louisiana, to the port of Galveston, in the State of Texas, on board the steamship Galveston. Libellant, Henry W. Rhodes, did perform said voyage on board the steamship Galveston in company with me and others. I arrived on board said steamship Galveston, at the port of Galveston, on Wednesday morning, I think, the 12th day of the month.

Answer to the second interrogatory: Said Henry W. Rhodes had a large number of negro slaves on board said steamship during the said voyage, I think as many as forty or fifty, I did not count them. I first saw said slaves on board said steamship Galveston.

Answer to third interrogatory: I do not know when said slaves were taken on board, nor how long they had been on board before the vessel sailed or pushed off from the wharf. I did not notice them on the wharf. I cannot say what, if any freight was put on board while they were on the wharf. I did not see the said luggage come on board, nor did I see it stowed away. I do not know what luggage, bedding, &c. said negroes had.

Answer to fourth interrogatory; Freight was received on board said steamship Galveston up within a very few minutes before she pushed off from the wharf on said voyage. The freight consisted of bales, boxes, barrels, wagons, and sacks. I recollect seeing two asses and some forty or fifty sheep on deck, but cannot say they were taken on board before the said slaves were permitted to go on board.

Answer to fifth interrogatory: The deck was very much crowded and filled up with freight of various kinds—bales, boxes, hogsheads, jackasses and sheep. There were two narrow passages left, one on each side of the engine, scarcely wide enough for two men to pass each other. I saw said slaves standing in this passage; when they wished to lie down, they got on top of the freight; they seemed to be very much crowded. I cannot say whether said vessel was or was not overloaded, being no judge of such matters. She seemed to be filled perfectly full up with freight, so much so that I could see but little space to put more on board.

Answer to sixth interrogatory: The vessel was so much crowded that there was but little space left for said slaves: they had to lie down upon the freight.

Answer to seventh interrogatory: The vessel was so much crowded with freight that there was no suitable place left for them to occupy; there was not sufficient room left for their comfort, or for them to move about: the forward part of the vessel was filled with sheep, asses, wagons, and the freight: the slaves occupied in part the passages on each side of the engine, which were to a great extent filled with freight: they got upon the freight and in these passages.

Answer to eighth interrogatory: I saw one of said slaves sick; he was brought into the cabin. I saw a girl dead; I did not see her while sick. I saw her thrown overboard after she was dead. My opinion is, that said sickness and death was caused by said slaves being compelled to sit, stand, and lie about in one posture without proper room to exercise, and by the cold and exposure suffered by them, and by their cramped and crowded condition. I saw no symptoms of cholera. I saw libellant have a negro man who had nearly perished, brought to the cabin fire some time between midnight and day. I don't recollect whether it was on Tuesday or Wednesday morning. Said negro seemed to be perfectly prostrated, from cold and exposure. I did not see Capt. Crane while said negro was in the cabin. I heard no conversation between Rhodes and Crane concerning said negro.

Answer to ninth interrogatory: The captain and officers did seem to give said negroes any other attention to said slaves than to any other freight: they seemed to pay no regard to their comfort at all. I saw no other cruelty or harshness to said slaves on the part of the officers of said vessel, than neglect and the uncomfortableness of their situation. I believe said slaves died from the want of proper space and room to occupy, and from want of proper care and attention.

Answer to tenth interrogatory: Said slaves were certainly much more uncomfortable by reason of the great amount of freight on deck than they would have been otherwise. The exposure of said slaves and their sufferings, caused by the condition of things on board and the weather, would be exceedingly liable to injure their health and endanger their lives.

Answer to eleventh interrogatory: Some of said slaves were sick or ill on such passage. Crane did not meddle or interfere with them. He did not aid or assist them, nor did he assist others in so doing that I saw. He gave them no attention or aid. I never saw him among the negroes. I do not know that he prevented others from aiding or assisting them.

Answer to twelfth interrogatory: I do not know what the health and condition of said slaves was when I first saw them. I think their health suffered by reason of the exposure and neglect they underwent whilst on board said steamship for want of room and

comfort on board. Capt. Crane did not seem to meddle with them or give them any care or attention.

G. W. DORRIS.

Sworn to and subscribed before me this 6th day of February, A. D. 1850.

JNO. S. JONES, *Com.*
U. S. D. C., D. T.

Answer to first cross-interrogatory: I am thirty-seven years old. I am a carpenter by trade. I have resided at this place about one month. I formerly lived at Aberdeen, in the State of Mississippi. I have followed my present occupation about eighteen or nineteen years. I first became acquainted with libellant, Henry W. Rhodes, and John R. Crane, on board steamship Galveston, in December last.

Answer to second cross-interrogatory: The said steamship Galveston left the port of New Orleans, on said voyage to the port of Galveston, on Sunday morning, I think between ten and eleven o'clock, A. M. I think it was the ninth day of December, A. D. 1849. The weather was warm and rainy. It rained some the morning we left. I do not recollect what sort of weather the night before we left. I had been in New Orleans five days. The health of the city of New Orleans was at that time, as I was informed, good; it seemed so to me. I saw no sickness, and heard of none. I heard it said there were a few cases of cholera at the hospital, but I saw none.

Answer to third cross-interrogatory: I do not know when the said slaves were taken on board said steamship. I do not know from what State, or where they had been brought. Several other persons than libellant had slaves on board said vessel during said voyage. I saw some two or three belonging to Mr. Harris brought on board; they were brought on board at the port of New Orleans some half-hour or more before the boat left on said voyage. All the negro deck passengers were, so far as I saw, treated alike. Some slaves were in the cabin, and fared better than those on deck.

Answer to cross-interrogatory fourth: Not now recollecting what sort of a night the night before our departure was, I cannot say whether I would or would not have left a gang of negroes out without shelter. I don't think I would have left them out on any night without shelter if I could have prevented it easily. I think shelter could be found in New Orleans on any night for one hundred negroes, with reasonable exertion. I went on board said vessel on Sunday morning between eight and nine o'clock in the morning, and the other passengers were coming on board from that time until we left. I contracted the day before we left for my passage. I had my boxes put on board on Saturday evening. I did not suppose that the mas-

ter or owners would be prevented from taking other freight or passengers after I had engaged mine.

Answer to fifth cross-interrogatory: I do not know the tonnage of said steamship Galveston, or how many barrels, by measurement, make a full cargo for her. I have made the passage but once between New Orleans and Galveston, and then on the steamship Galveston. It was cold and boisterous during most of the voyage. I do not know how many white deck passengers on board. I saw or heard of no sickness among the deck passengers except among the negroes of libellant, Henry W. Rhodes.

Answer to sixth interrogatory: I saw but the one sick negro; he was brought into the cabin; he seemed to be cold and benumbed. I saw no sign of cramp, purging, or vomiting; he seemed cold and stupid; there were some sixty or seventy cabin passengers on board, I think, during said voyage. I would not think in the cabin by the stove a fit place to put a negro sick with cholera or other disease.

Answer to seventh cross-interrogatory: I saw said Rhodes take or have a sick negro taken into the cabin or saloon of said steamship during said voyage. I do not think I would have taken the liberty of putting a sick negro into the cabin, without the permission of the master or officers of the vessel; nor would I have expected the cabin passengers to have been satisfied with such a proceeding. I think, if not objected to by the passengers, he would have had the right to put a sick negro into the cabin, but otherwise, if objected to, all that space on deck forward of the shaft is the portion of the vessel to which deck passengers are entitled, or so much thereof as is necessary for their comfort and convenience during said voyage.

Answer to eighth cross-interrogatory: I did not see the luggage, bedding, or other things belonging to said Rhodes, go on board. I did not see it stowed away, and don't know how or where it was stowed. I did not see the negroes go on board; they seemed to be dirty, but not more so than negroes travelling would be.

Answer to ninth cross-interrogatory: I saw no other harsh treatment or cruelty towards said slaves than the neglect to provide comfortable quarters for them, and the failure to give them protection from the weather and cold wind. I did not see Rhodes or any other person furnish said slaves anything to eat, or whether it was furnished by anybody else.

Answer to tenth cross-interrogatory: From the time the said steamship left the mouth of the Mississippi, it was cold and windy during most or all of said voyage; and, I think, it required the particular care and attention of Captain Crane in looking out for the safety of the vessel and passengers and cargo. As a captain in the management of his vessel and in her navigation, he did, in my opinion, faithfully discharge his duty.

Answer to eleventh interrogatory: I first heard of this suit, I think, in Houston. I remained in Galveston something like three hours after I landed from said steamship. I never had any talk with

Rhodes or any other person about this suit. Mr. Rhodes told me he was going to publish the boat and Captain Crane about the treatment his slaves received on board; and I gave him permission to refer to me, and that, for that purpose, he might use my name; but about this suit I never made any written statement to any person.

G. W. DORRIS.

Sworn to and subscribed before me this 6th day of February, A. D. 1850.

JOHN S. JONES,
Com'r U. S. D. C., D. T.

The following deposition of *William G. Martin* was read in evidence at the hearing of this cause on behalf of the libellant, to wit:—

UNITED STATES OF AMERICA,
District of Texas:

COUNTY OF ———,
State of Texas, ss:

Be it remembered, that on this 26th day of January, in the year of our Lord 1850, I, John S. Jones, a commissioner duly appointed by the United States District Court for the District of Texas, under and by virtue of the acts of Congress, entitled "An Act for the more convenient taking affidavits and bail in civil causes depending in the courts of the United States," passed Feb. 20th, 1812; and the act of Congress, entitled "An Act in addition to an act entitled an act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States," passed March 1st, 1817; and the act entitled "An Act to establish the Judicial Courts of the United States," passed Sept. 24th, A. D. 1789, did call and cause to be and personally appear before me at the tax assessor and collector's office in Houston, in the county of Harris, in the District of Texas, in the State aforesaid, Wm. G. Martin, to testify and the truth to say on the part and behalf of the libellant in a certain suit or matter in controversy now depending and undetermined in the District Court of the United States for the District of Texas, wherein Henry W. Rhodes is libellant or plaintiff, and the steamship Galveston, her tackle, apparel, furniture, &c., and John R. Crane, and all others having or claiming any interest therein, are defendants. And the said W. G. Martin, being about the age of fifty-two years, and having been by me first cautioned and sworn to testify the truth, the whole truth, and nothing but the truth, in the matter of controversy aforesaid, I did carefully examine Wm. G. Martin, and he did thereupon depose, testify, and say as follows, viz:—

Answer to interrogatory first: I did on or about the eighth or ninth day of December, A. D. 1849, start from the port of New Orleans, in the State of Louisiana, on a voyage to the port of Gal-

veston, in the State of Texas, on board of steamship Galveston. A man by the name of Rhodes did perform said voyage on board said steamship Galveston in company with me and other persons. He was called Dr. Rhodes; his given name I do not know. I think we left New Orleans on Sunday; and I think we arrived at Galveston on the Thursday following; and I think it was on the 12th day of the month we arrived at Galveston.

Answer to interrogatory second: Said Dr. Rhodes did have a large number of negro slaves on board of said steamship Galveston during said voyage from said New Orleans to said Galveston. The number I do not know. I first saw said slaves when they were coming on board the said steamship on the morning of our departure from New Orleans.

Answer to interrogatory third: The slaves came on board on Sunday morning, and I think about ten or twelve o'clock. I think the slaves came on board not more than half an hour before the boat left the wharf. I never saw or noticed the said slaves until I heard the captain of the steamship tell them to come on board. The slaves were on the wharf where the steamship then lay. I do not know whether or not any freight was taken on board whilst said slaves were on the wharf. I did not notice any freight put on board whilst said negroes were waiting on the wharf. I did not see the luggage, bedding, or other articles belonging to said slaves taken on board or stowed away. I heard Dr. Rhodes say that the luggage of the negroes was stowed away so that it could not be got at. This occurred in the cabin of the vessel, and was in a conversation with the passengers. He, Dr. Rhodes, seemed to be very anxious to get the luggage and bedding of the negroes, and blamed Capt. Crane very much for putting it away so that it could not be got at. Dr. Rhodes spoke very publicly about the conduct of the master, and censured him much. I do not know how long the luggage and bedding was taken on board, if at all, before the slaves came on board.

Answer to fourth interrogatory: I do not know that notice was given by the master, agent or clerk that said steamship would leave earlier than she did leave for Galveston. She started perhaps one hour or two later than I understood she was to leave.

Answer to interrogatory fifth: Freight was taken on board said steamship up to a very short time before her departure from the wharf at New Orleans, on said voyage; the nature and character of said freight I do not know; there were a number of sheep taken on board before the slaves came on board; I do not know when they were put on board; I recollect no jackasses or jennies being on board; I think the vessel was very heavily laden, but cannot say whether she was overloaded or not, being not familiar with such things.

Answer to interrogatory sixth: The vessel was crowded with boxes, barrels, crates, and sheep, so that I do not think there was sufficient space left for all the negroes to lie down at a time; there was little or no space left for the negroes to move about. I found it almost

impossible to pass along a very narrow passage between the freight. Negroes were squatted about in clusters on the freight, and in the passway; there was no other place for them I could see; there seemed to be no regard paid to the comfort of the slaves, in the arrangement of the freight; the slaves seemed to have to stow themselves about among the freight, and on top of it, as they best could.

Answer to interrogatory seventh: Said slaves had no suitable and proper place to occupy on board said vessel; they were very much crowded; so far as I could see, they had no chance to move about; I do not know that they were otherwise restrained than by the crowded and hampered state of the vessel.

Answer to interrogatory eighth: I do not know of my own knowledge that any of the negroes were taken sick on board said steamship; I heard among the passengers that some of them had been taken sick, and that two had died. The negroes were so exposed that it was a matter of surprise to me that many of them did not die; I scarcely thought it possible for a human being to live, exposed as they were on said voyage; I know nothing about a negro being brought to the stove in the cabin; and heard no conversation between Captain Crane and Dr. Rhodes in relation thereto.

Answer to interrogatory ninth: I never heard the Captain, or any officers speak of, or to any of the slaves; they were very badly and inhumanly treated; Mr. Rhodes seemed to do all he could for their comfort, but could do little or nothing; the slaves were very much neglected by the said Captain Crane and officers of said vessel; he, Crane, seemed to pay no attention to said slaves whatever, and seemed to be entirely careless of their condition and comfort; I think that if any of said slaves did die, they died from exposure. I think that Captain Crane could have protected said slaves from exposure, in a great measure, if he had seen fit to do it.

Answer to interrogatory tenth: The said slaves were rendered very uncomfortable, and were much exposed by reason of the great amount of freight and other things on board of said vessel; and I have no doubt that the health of said slaves was greatly endangered by such exposure.

Answer to eleventh interrogatory: I did not see any of said slaves sick; do not know how they were treated by Captain Crane or officers, if they were sick.

Answer to twelfth interrogatory: When I first saw said slaves they seemed in good health and condition; I think they were injured by reason of the exposure they suffered on board said vessel, for want of proper space and attention; the master and officers of said vessel seemed to pay no attention whatever to said slaves; I saw no other harsh treatment than neglect. I never heard Crane speak of, or to said slaves. I have stated what I know of the matter in my preceding answers.

WM. G. MARTIN.

Sworn to and subscribed before me this 26th day of January, A. D. 1850.

JOHN S. JONES,
Com'r U. S. D. C., Dist. of Texas.

Adjourned until Monday morning at 9 o'clock.

JOHN S. JONES,
Commissioner.

Monday morning, 9 o'clock.

Examination resumed on Cross-interrogatories.

Answer to cross-interrogatory first: I am in my fifty-second year. I reside and have resided in this place for the last eight years. I formerly lived in St. Louis, Missouri. I have no profession. I have no acquaintance with libellant. I first saw him on the steamship Galveston on the trip spoken of in the direct interrogatories. I never saw Captain Crane until I came in the said vessel on said trip.

Answer to second cross-interrogatory: We left, as stated in my answer to direct interrogatories, on Sunday. I cannot now say whether it was the 8th or 9th day of the month. The weather was, to the best of my recollection, favorable; on the night previous to our departure, as also on the morning we left, it was not uncomfortably cold; nor was there anything remarkable about it. I was but one day in the city of New Orleans. We left for Galveston on the day following my arrival at that place. I do not know what the health of the place was; I heard of no sickness.

Answer to third cross-interrogatory: As stated in answer to direct interrogatories, the negroes came on board about half an hour before our departure. I do not know from what State and when the said negroes were brought when they were so put on board. I had no slaves on board myself; one other person than Doct. Rhodes had slaves on board the said ship on said voyage. He had them —— that I know of only ——. I do not know when their slaves came on board. I saw no difference in the treatment of the negro passengers. The slaves, above referred to, had blankets, and those of Rhodes had or seemed to have none. I own one slave.

Answer to fourth cross-interrogatory: The weather may have been more inclement than I am aware of, but if my recollection of the state of the weather is correct, I would have left them on the wharf on the night referred to, if it had been my intention to ship them the next morning. I am of the opinion that comfortable shelter could have been found on the night in question, or any other night, for one hundred negroes with reasonable exertion. I went on board on Sunday morning to make said voyage. I found many passengers on board, and many came on board after me. I made no contract for my passage. I went on board for the first time on Sunday morning, and but a short time before the vessel left. I do not know that

I had any right to object either to freight or passengers being taken on board, after I came on board.

Answer to fifth cross-interrogatory: I do not know what the tonnage of said vessel is, or how many barrels by measurement is a full cargo for her. I have made the trip between Galveston and New Orleans frequently, both on sail and steam vessels. I now do not recollect what vessels I may have travelled on. The weather was very bad and cold during nearly the whole of said voyage. I know of two deck passengers who live at this place, and a man and his family; I know of no others. I know of no sickness among the deck passengers or others, except ordinary sea-sickness. A great many of the cabin passengers were sea-sick.

Answer to sixth cross-interrogatory: As before stated, I know of no sickness among the said negroes; I only heard of it. I do not know the number of cabin passengers on board of the vessel. She was much crowded. The state of the weather during said voyage was such that I would consider near the cabin fire a proper place to put a sick negro, or any other person sick with cholera or any other sickness, and would have thought it inhuman to object.

Answer to seventh cross-interrogatory: I did not see or know of said Rhodes having taken a sick negro into the cabin or saloon of said steamship, during said voyage; I would not have taken a sick negro into the cabin without the consent of the master or other officers of the vessel; I am not able to say whether the cabin passengers would or would not object to such a proceeding; for myself, I do not think that I would have objected. As before stated, I do not know that Rhodes had a sick negro in the cabin, I am not aware that he had any right to do so; I consider the deck a proper place for deck passengers; I do not know what space or privileges are allowed deck passengers; they usually occupy the forward part of the vessel.

Answer to eighth cross-interrogatory: I saw no bedding or baggage by me supposed to belong to the negroes of said Rhodes, put on board said vessel at New Orleans; nor do I know whether Rhodes was or was not present when baggage was put on board; I do not know where it was stowed, or who stowed it away, or who superintended the stowage thereof, or on what day it was put on board; I did not notice anything peculiar about the negroes when they came on board; if they were ragged and dirty they were not so unusually so as to attract my attention; they looked not more ragged and dirty than plantation negroes usually do when travelling.

Answer to ninth cross-interrogatory: As before stated, in my answer to direct interrogatories, I did not see or hear the captain or any of the crew speak to or of said negroes; the master and officers did not seem to give them any attention whatever; if any of the said slaves received positive mistreatment from the master or crew, I did not see it; I thought their comfort was neglected; I did not know who furnished the negroes food on the said voyage, or what kind of food they were furnished with.

Answer to tenth cross-interrogatory: The weather was continually boisterous on the voyage, whilst at sea; I am of the opinion that much of the time of John R. Crane, master of said vessel, was occupied in the navigation of the vessel, and in watching over the safety of the said vessel, passengers, and cargo. The weather was bad and rough; I think Captain Crane did faithfully discharge his duties in the navigation of said vessel, on said voyage; he seemed to manage the vessel with skill as a seaman.

Answer to eleventh cross-interrogatory: I heard Dr. Rhodes say he would bring such a suit as this whilst we were yet on board the vessel; the first I knew of the institution of the suit was when requested to answer these interrogatories; I had, however, heard, how I do not know, that such a suit had been instituted by Rhodes. I left Galveston on the same day that I arrived there; I do not ever recollect conversing with Rhodes, or any other person, about this suit; I never made any written statement concerning the matter.

WM. G. MARTIN.

Sworn to and subscribed before me, at the City of Houston, this 28th day of January, A. D. 1850.

JOHN S. JONES,
Com. U. S. Dist. Ct., Dist. Texas.

The following deposition of J. E. Kirby was read in evidence on behalf of the libellant, at the hearing of this cause, to wit:—

UNITED STATES OF AMERICA,
District of Texas:

COUNTY OF WASHINGTON,
State of Texas:

Be it remembered, that on this ——— day of January, in the year of our Lord 1849, I, John S. Jones, a commissioner duly appointed by the United States District Court for the District of Texas, under and by virtue of the acts of Congress entitled "An Act for the more convenient taking of affidavits and bail in civil causes depending in the Courts of the United States," passed Feb. 20th, 1812, and the act of Congress entitled "An Act in addition to an Act entitled an Act for the more convenient taking affidavits and bail in civil causes depending in the Courts of the United States," passed March 1st, 1817, and the act entitled "An Act to establish the judicial courts of the United States," passed Sept. 24th, 1789, did call and cause to be and personally appear before me, at the house of J. E. Kirby, in the county of Washington, in the District of Texas, in the State aforesaid, J. E. Kirby, to testify, the truth to say on the part and behalf of the libellant in a certain suit or matter of controversy now depending and undetermined in the District Court of the United States for the District of Texas, wherein Henry

W. Rhodes is libellant or complainant, and the Steamship Galveston, her tackle, apparel, furniture, &c., John R. Crane, and all others having or claiming any interest therein, are defendants.

And the said J. E. Kirby, being about the age of thirty years, and having been by me first cautioned and sworn to testify, and the truth to say, the whole truth and nothing but the truth, in the matter of controversy aforesaid, I did carefully examine the said J. E. Kirby, and he did thereupon depose, testify, and say as follows, viz:—

Answer to first interrogatory: I did on or about the 8th or 9th day of December, A. D. 1849—I think on the 9th—start on a voyage from New Orleans, in the State of Louisiana, to the port of Galveston, in the State of Texas, on board the steamship Galveston. Doc. Rhodes—his given name I do not know—did perform said voyage on board said steamship Galveston in company with me and others. I do not now recollect the day of the week or the day of the month on which we arrived at Galveston. It was some three or four days after the day of our departure from New Orleans.

Answer to second interrogatory: Doc. Rhodes had a large number of slaves on board of said steamship Galveston on said voyage; I think some sixty or more; I presumed he owned them. He seemed to control them and treat them as his own. I first saw said slaves on the wharf at which the steamship Galveston lay in the port of New Orleans.

Answer to third interrogatory: The slaves were taken on board but a short time before the vessel left; they came on board some ten or fifteen minutes before the boat pushed off from the wharf. I do not know how long the slaves had been on the wharf before they were taken on board. The slaves were on the wharf and very near to the vessel. I presume it was the same wharf that boat lay at. If it was not, I did not observe any line of division between it and the other. There was a great deal of freight taken on board said vessel while the slaves were waiting on the wharf. I know nothing about the stowage of the negro luggage, or the time at which it was put on board.

Answer to the fourth interrogatory: Freight was taken on board said steamship up to a very short time before her departure from New Orleans on said voyage. The nature and character of the freight I do not know; barrels, boxes—perhaps some wagons and ploughs. There were three jackasses, one jenny, and some forty or fifty sheep taken on board whilst the slaves were waiting on the wharf. I understood from the master or some of the officers of the boat, that she was heavily ladened. I do not know that she was overloaded.

Answer to fifth interrogatory: I think the steamship left on the same day she was advertised to leave, and within an hour or two of the time.

Answer to sixth interrogatory: The forward part of the vessel

was very much crowded with freight of various kinds, asses, and sheep; so much so that there was not sufficient space left for deck passengers to lie down upon, or to be comfortable at any time. I cannot describe the manner in which the freight was stowed; but little space was left for the slaves.

Answer to seventh interrogatory: The slaves were much crowded. I do not know that they were restrained in their movements.

Answer to eighth interrogatory: Three or four of said slaves were taken sick on said voyage; two of them died, I think, of cholera, caused by exposure. My reason for thinking that the negroes died of cholera is, that the ordinary symptoms of cholera attended their illness. My reason for thinking that cholera was brought on by exposure is, that when I first saw the slaves on the wharf they seemed to be in good health, and were well clad. I saw a sick negro near the stove in the cabin, and heard Captain Crane order him to be taken out; said negro was taken out in accordance with the order of Captain Crane. Rhodes insisted on keeping the negro by the stove, but Captain Crane refused to let him stay there, on the ground that he would not have the cabin passengers disturbed by him.

Answer to ninth interrogatory: I do not know what kind of treatment said slaves received from the master and officers of said vessel during said voyage.

Answer to tenth interrogatory: The vessel was so much crowded with freight that the negroes were necessarily very much exposed, and I am of the opinion that their health was in danger, if not actually injured by such exposure.

Answer to eleventh interrogatory: I know that three or four of the negroes were sick, but I know nothing of Captain Crane's conduct towards them.

Answer to twelfth interrogatory: I know nothing more than is stated in my preceding answers.

J. E. KIRBY.

Sworn to before me this 31st March, 1850.

JNO. S. JONES.

Answer to cross-interrogatory first: I am thirty years old; I am a planter; I have lived at this place one year; I lived at Groce's Retreat before I came here; I have been a planter some six or seven years. My first acquaintance with Rhodes was formed on the trip of said steamship Galveston above-spoken of. I have known Captain Crane about two years.

Answer to cross-interrogatory second: I think we left New Orleans on the ninth day of the month; both the night previous, and the morning of the departure of the said vessel upon said voyage, was rainy and disagreeable weather. I had been in the city about a week; I heard some cholera spoken of, but I saw none; no cases were reported by the Board of Health.

Answer to third cross-interrogatory: The slaves were taken on board, I think, about 10 o'clock A. M. I understood from Doctor Rhodes that they came from Alabama. I had four slaves on board said steamship on said voyage. My negroes were taken on board at the same time the others were. I think I secured more comfortable quarters for my slaves than other slaves had. I own some 70 or 80 slaves.

Answer to fourth cross-interrogatory: I would not willingly have suffered slaves of mine to remain on the wharf without shelter on such a night as the night previous to the day of our departure from New Orleans. Doctor Rhodes's negroes had a very comfortable tent on the wharf, and were well protected against the inclemency of the weather, until the tent was taken down on the morning of our departure. I have no doubt that shelter could be easily had for one hundred negroes on any night in the city of New Orleans. I think the shelter provided by Doctor Rhodes for his negroes sufficient for their comfort. All the passengers went on board the steamship on the morning of our departure. I saw the captain of the vessel a day or two before our departure, and told him I was going over with him, but made no contract for my passage. I did not think the master or owners were precluded from taking other passengers or freight after I came on board.

Answer to fifth cross-interrogatory: I do not know the tonnage of said vessel, or what number of barrels, by measurement, is a full cargo for her. I have made the trip twice on the Galveston, once on the Columbia, and once on the Palmetto. The weather was cold and bad during said voyage. There were a good many white deck passengers on board on said voyage. There was a great deal of sea-sickness. I understood the steward was sick, but I know of no other sickness than among the negroes referred to as those of Rhodes, except sea-sickness.

Answer to sixth cross-interrogatory: The symptoms were, as I thought, those of cholera. I suppose there were fifty or more cabin passengers. I would not deem near the fire in the cabin a proper place to put a negro deck passenger sick with cholera or other disease.

Answer to seventh cross-interrogatory: A sick negro was taken into the cabin or saloon, and I presume by Rhodes's order; he sanctioned the act, at all events. I would not have taken the liberty of putting the negro in the cabin without the permission of the master or officers of the vessel. I do not think that the cabin passengers would have been pleased with such an act. I do not know whether the master has or not the right so to put a sick negro deck passenger in the cabin. I deem forward of the shaft the proper place for deck passengers on said steamship. I deem them entitled to the space forward of the shaft.

Answer to cross-interrogatory eighth: I think I saw the luggage come on board before the negroes went on board, but do not know.

I think the negroes carried their own luggage with them on board, excepting some heavy parcels, which were taken on board before them. I do not know whether said Rhodes or any person representing him was present at the time, or that he knew what was done with the luggage, or where it was put. I saw the negroes when they went on board; they were dirty, but well clad. They were not dirtier than negroes travelling generally are. They were seemingly in good health.

Answer to ninth cross-interrogatory: I saw no act of positive harshness towards any of the negroes by Capt. Crane or any of the officers of the vessel. I do not know who furnished the negroes with provisions, or what sort of provisions they were furnished with.

Answer to tenth cross-interrogatory: The weather was boisterous, and I think it required the constant care and attention of Capt. Crane in looking out for the vessel, passengers, and cargo. I think he faithfully discharged such duty.

Answer to eleventh cross-interrogatory: I first heard of this suit some three or four weeks ago from a man, I think, named Steward. I heard it at my own home. I remained in Galveston but two or three hours. I do not recollect talking with any other person than the libellant about this suit. I tried to influence Dr. Rhodes not to bring this suit. I understood that Rhodes intended publishing the boat, and he called on me and asked my name as a reference, to which I consented, but have, that I am aware of, made no written statement of the matter. I also tried to dissuade Rhodes from publishing the matter.

J. E. KIRBY.

Subscribed and sworn to before me this 30th day of March, A. D. 1850.

JNO. S. JONES,
U. S. Com'r.

The following deposition of H. P. Hale was read in evidence on the part of libellant at the hearing of this cause, to wit:—

UNITED STATES OF AMERICA,
District of Texas, ss:

COUNTY OF WASHINGTON,
State of Texas:

Be it remembered that on the 2d day of February, in the year of our Lord 1850, I, John S. Jones, a Commissioner duly appointed by the United States District Court for the District of Texas under and by virtue of the acts of Congress, entitled "An Act for the more convenient taking of affidavits and bail in civil causes depending in the Courts of the United States," passed Feb. 20th, 1812, and the act of Congress, entitled "An Act in addition to an act entitled an

act for the more convenient taking affidavits and bail in civil causes depending in the courts of the United States," passed March 1st, 1817; and the act entitled "An Act to establish the Judicial Courts of the United States," passed Sept. 24th, 1789, did call and cause to be and personally appear before me at house of H. P. Hale, in the county of Washington, in the District of Texas, in the State aforesaid, H. P. Hale, to testify and the truth to say on the part and behalf of the libellant in a certain suit or matter of controversy now depending and undetermined in the District Court of the United States for the District of Texas, wherein Henry W. Rhodes is libellant or plaintiff, and the steamship Galveston, her tackle, apparel, furniture, &c., and John R. Crane, and all others having or claiming any interest therein, are defendants. And the said H. P. Hale, being about the age of 36 years, and having been by me first cautioned and sworn to testify the truth, the whole truth, and nothing but the truth, in the matter of controversy aforesaid, I did carefully examine the said H. P. Hale, and he did thereupon depose, testify, and say as follows, viz:—

Answer to first interrogatory: I did, on the 9th day of December, A. D. 1849, start from the port of New Orleans, in the State of Louisiana, on board the steamship Galveston, to make a voyage to the port of Galveston, in the State of Texas. One Dr. Rhodes, his given name I do not know, did perform said voyage on board said steamship in company with me and others; we left on Sunday morning about eleven o'clock; said steamship arrived at Galveston on the following Wednesday.

Answer to second interrogatory: Dr. Rhodes had a large number of negro slaves on board said steamship on said voyage, I think about sixty. I first saw said slaves and noticed them on Saturday evening, the day before the boat left; they were then on the wharf at which said steamship then lay, in the port of New Orleans.

Answer to third interrogatory: The said slaves were taken on board said steamship on Sunday morning, the 8th day of December, a few minutes before she left. They were on board, I think, not more than ten minutes before the boat left. The said slaves came on the wharf where the said steamship then lay, I think, about half an hour by sun on the Saturday evening before the boat left. Freight was taken on board said steamship whilst said slaves were on said wharf; there was a considerable quantity of freight so taken on board said vessel whilst said slaves were on said wharf; I did not see the luggage of said negroes stowed away; I don't know what luggage, bedding, and other articles they had. I saw, on the Saturday evening before the boat left, a considerable quantity of luggage, bedding, &c., among the company of negroes as they were going on the wharf at New Orleans; I again saw the negroes with their luggage leaving the wharf at Galveston, but I did not see it on board the said vessel during said voyage, and do not know how it was disposed of on board the vessel; the negroes seemed to be deficient in necessary bedding to keep them comfortable whilst on board said vessel.

Answer to the fourth interrogatory: I think said steamship left on the day the agents told me she would leave, perhaps an hour or two later in the day.

Answer to fifth interrogatory: The said steamship continued to receive freight on board up to a few minutes before her departure from New Orleans on said voyage; there were bales, barrels, boxes, sacks, and wagons. Among the freight so taken on board there was one jenny, three jackasses, and some forty or fifty sheep so taken on board before said negroes came on board. I do not know that the master prevented them from coming on board earlier; but Capt. Crane refused to let me take my negroes on board until after the jackasses and sheep were on board. After everything else was on board and the boat was about to leave, I heard Capt. Crane hollow to the negroes from the boat, to come on board. They had barely time to get on board before the boat shoved off. I had to help my own slaves to get their luggage on board, so as to be in time. I cannot say that said boat was overloaded, being no competent judge of such things; she was very much crowded and hampered up with freight, and appeared to me to be very heavily laden.

Answer to sixth interrogatory: Said vessel was so much crowded and filled up with freight, jackasses, and sheep, that said slaves had not sufficient space to lie down or to move about, or even to stand on the deck of the vessel, unless it was a small space out on the forecastle, between the asses and the sheep, in the open weather—even there I think there was scarcely room for them; and in that place they would have been exposed to being wet with spray constantly. The gangway running from the ladies' saloon forward was stowed with freight, so that there was barely sufficient room left, say, for two men to pass each other; and this was the only place left said slaves, by the master, out of the weather. And the floor of the starboard gangways was covered with water; the slaves, as many as could, crawled upon the freight to keep out of the water; the remainder had to take it. On the larboard side there was plank laid down from the cook-house to the cabin; on this side the floor was dry—and there I kept my negroes, part of them on a wagon-body set on edge, and part of them on the inside of said wagon-body, with freight.

Answer to interrogatory seventh: Said slaves did not have any suitable and proper place to occupy on board said vessel; that portion of the vessel usually allotted to deck passengers was so filled up and crowded with freight, that they could only occupy it by crawling up in the freight. I did notice particularly the space occupied by said slaves; they were very much crowded in a small and narrow space; there seemed no regard paid to the comfort of said slaves by the master or officers of the boat. I had a sick negro woman on board, and was refused a cup of coffee for her, by the clerk; he refused either to sell it or give it; he said it was against the rules of the boat. The slaves were confined to a very small and narrow space during the voyage.

Answer to eighth interrogatory; I saw two sick negroes, said to belong to Rhodes, on board; they were taken sick on board, and one of them died. It is clearly my opinion that such sickness and death was caused by exposure on board said vessel during said voyage. My reason for so thinking is, that when the said slaves came on board they seemed generally to be in good health, and lively. I was frequently among the negroes, and heard no complaint among them up to Monday evening; the weather was very inclement, a north wind blowing, and said slaves were chiefly on the north side of the boat, with no place to lie down or protect themselves from the weather, to any extent. The negro that died was, to the best of my recollection, taken sick on Tuesday morning, about two hours before day. I at that time heard that some of the negroes were sick, and I got up and went among the negroes, and found Doc. Rhodes with the negro that died. The negro was then standing up, and had no place to lie down. The slaves were so much exposed to cold and wet feet that it was to me no matter of surprise that they were sick. I do not think anything else could have been expected. I did see libellant with a negro man who was very sick, and I myself proposed to Rhodes to take him into the cabin. This occurred on Tuesday night, just before day. Rhodes took the negro into the cabin and put him on the floor by the stove. I did not hear the words that Captain Crane used on the occasion, but heard him making a fuss about the negro being in the cabin; and on the next morning I saw the negro lying on the after-hatch, exposed to the wind which blew through the open space immediately forward of the saloon.

Answer to ninth interrogatory: I think said slaves were badly treated. I do not think the master or officers of said vessel gave said slaves any care or attention whatever during said voyage; they seemed to be entirely neglected by the master and officers of the vessel. I have no doubt that the want of proper care and attention, together with the want of proper room, caused the sickness of said negroes.

Answer to tenth interrogatory: Said slaves were rendered very uncomfortable, and were much exposed by reason of the great amount of freight which was stowed in the gangways, and on the forward part of the vessel; and it is my opinion that such exposure and suffering so caused said slaves, would be exceedingly liable to injure the health and endanger the lives of said slaves.

Answer to eleventh interrogatory: Some of said slaves were taken sick on said passage; said Crane did not aid or assist any of such slaves so taken sick or ill; nor did he assist or facilitate any other person in so doing; he gave them no care or attention whatever; nor did any other officer of the vessel, to my knowledge; I think that the slave who was taken sick on Tuesday night, and who was placed on the after-hatch, just forward of the cabin, could have been put in a much less exposed place, either in the baggage room or in either of the gangways, by a proper arrangement of the freight; the only

3126.

inhumanity or brutal treatment of said slaves I saw, was the entire disregard and carelessness of the master and officers of the vessel, toward the comfort of the negroes; Captain Crane did prevent Dr. Rhodes from aiding or relieving said slave so ill, by moving the sick negro out of the cabin, and not letting said Rhodes put said negro in a proper place.

Answer to twelfth interrogatory: When I first saw said slaves they were in apparent good health and condition; I believe said slaves were greatly injured by reason of their sufferings and exposure, for the want of a proper place, which they were allowed to occupy on board said vessel on said voyage, and by reason of the carelessness and disregard of their comfort by the master and officers of said vessel; as before stated, Captain Crane gave said slaves no attention whatever, and seemed to be wholly regardless of their well-being; I believe that all I know material to the parties is set out in my foregoing answers.

H. P. HALE.

Sworn to and subscribed before me this 2d day of February, A. D. 1850.

JOHN S. JONES,
Com. U. S. D. Ct., Dist. Texas.

Answer to cross-interrogatory first: I am nearly 30 years old; I am a farmer, and I have lived at the place at which I now reside since the 29th day of December last; I previously lived in Montgomary, Alabama; I have followed my present occupation about six years; I first became acquainted with Dr. Rhodes, the libellant, on board the steamship Galveston, in December last; I became acquainted with Captain Crane about the same time.

Answer to second cross-interrogatory: Said steamer left New Orleans on the ninth of December; it was on Sunday, and either the 8th or 9th day. I stated in my answer to direct interrogatory, that it was the 9th; I came to that conclusion from the date of a receipt for my tavern bill in New Orleans, made out on the day of our departure; the night previous to our departure was cloudy and rainy, but was not cold; I had then been in New Orleans five days; I know nothing about the health of that city at that time, but was informed by Dr. Hutchinson that the health of the city was good; that there was some cholera there, but that it was not epidemic.

Answer to third cross-interrogatory: The negroes referred to in the direct interrogatories, were taken on board said steamship on Sunday morning, at the port of New Orleans; I understood they came from the State of Alabama; I understood they had been at the Lake Pontchartrain some three or four days; my brother, myself, a Mr. Haney, and Col. Kirby, and perhaps some other persons had slaves on board; I think that altogether there were eighty or one hundred negroes on board said steamship, during said voyage; they

were all taken on board at New Orleans; they were, or seemed to be all treated alike, at least those who took a deck passage; some three or four were in the cabin; I am the owner of slaves.

Answer to fourth cross-interrogatory: I would not have permitted slaves, of whom I am the owner, or of which I had the charge, to remain on the wharf without shelter on such a night as was the night previous to our departure from New Orleans on said voyage, if I could have prevented it. I do not think that Dr. Rhodes could have found shelter for his negroes for the night, as he only arrived with them on the wharf about half an hour before night. It took myself and brother all day on Tuesday to obtain shelter for our negroes. We had great difficulty in obtaining a proper place for our slaves in the city. On the Sunday morning that the boat left, I found Dr. Rhodes's negroes on the wharf protected from the weather by a tarpauling tent or awning. After Capt. Crane refused to let my slaves on board, when I took them to the boat on Sunday morning, I got permission from Dr. Rhodes's overseer to let three of my negroes get under his shelter until they would be permitted to go on board. All the passengers went on board on Sunday morning, and but a short time before the boat left. I engaged my passage, for myself and slaves, three or four days before the boat left. I did not suppose that the master or owners of said vessel would be precluded from taking any more freight or passengers after I had so engaged my passage; but I did not suppose he had any right to or would take more freight or passengers than he prudently or properly could accommodate.

Answer to fifth cross-interrogatory: I do not know the tonnage of said vessel, or what number of barrels would make a full cargo for her. I never made the trip but the one time between New Orleans and Galveston, and only on the said steamer Galveston. It was cold and bad weather from the time we left the mouth of the Mississippi, during the voyage to Galveston. There were a good many white deck passengers on board said steamship during said voyage; one white man had the chills and fever. There was a good deal of sea-sickness, but, with these exceptions, there was no other sickness than that of the negroes of Rhodes, and my own negro woman, before referred to in my answer to direct interrogatories.

Answer to sixth cross-interrogatory: The negro who died seemed to be suffering from cold, and complained of cramps in the stomach and chest. He had but little pulse when I saw him; there was no vomiting or purging at the time I saw him. The other negro who was sick, seemed to be in a state of stupor; he did not complain at all; he seemed to be nearly froze to death. I think there were at least sixty cabin passengers on board during said voyage; under the circumstances, I thought the cabin fire a proper place for the sick negro, as no objection was made to it by any of the cabin passengers.

Answer to seventh cross-interrogatory: I know that Rhodes had

a sick negro taken into the cabin or saloon of said vessel. I proposed to Dr. Rhodes to do so. I told him to take the negro into the cabin by the fire, and thaw him out, as, I thought, that was all he wanted. It was before day, and nearly all the passengers were in their berths. I spoke of it to several of the passengers afterwards, and none of them made any objection to it. I heard none of the passengers speak of the matter afterwards who objected to it. I do think the master or officers would have had the right to put a sick negro in the cabin under the circumstances, as was done by Rhodes. I consider the firecastle decks and the gangways forward of the wheels as the proper portion of said vessel for deck passengers; and, I think, they are entitled to all that space, or so much thereof as is necessary for their comfort.

Answer to eighth cross-interrogatory: I think the negroes carried some of their luggage on board with them when they went on board. Dr. Rhodes and his overseer were both present at that time. I do not know whether he did or did not know what was done with said luggage, or where it was put; all that I saw put on board, the negroes carried with them on Sunday morning. I saw said negroes when they went on board. They were not ragged and dirty, but seemed to be well clad.

Answer to ninth cross-interrogatory: The only cruel or bad treatment that I saw the negroes receive was the total neglect of their comfort, as stated in my answers to direct interrogatories. I saw the negroes eating, but do not know who furnished the food, and did not pay attention to the kind of food they had to eat. I do not recollect what other person was present at the time or times I saw them eating.

Answer to tenth cross-interrogatory: The weather was boisterous and bad during the voyage. I think it required the constant care and attention of the master in taking care and looking out for the safety of the vessel, cargo, and passengers. And, so far as I am competent to judge, he discharged that portion of his duty well.

Answer to eleventh cross-interrogatory: I first heard of this suit in Houston, and about the 21st of December last. I remained in Galveston only about two hours after my arrival at that place. I have heard my brother speak of this suit, as well as several others who I don't now recollect. I never heard Rhodes speak of it. I never made any written statement about the matter to any person. I never heard it spoken of until after its commencement.

H. P. HALE.

Sworn to and subscribed before me this 2d day of February, A. D. 1850.

JOHN S. JONES, *Com.*
U. S. D. C., D. T.

Deposition of John Hale read in evidence on the part of libellant at the hearing of this cause:—

UNITED STATES OF AMERICA,
District of Texas:

COUNTY OF WASHINGTON,
State of Texas:

Be it remembered that on this, the 2d day of February, in the year of our Lord 1850, I, John S. Jones, a commissioner duly appointed by the United States District Court for the District of Texas, under and by virtue of the acts of Congress entitled "An Act for the more convenient taking affidavits and bail in civil causes depending in the courts of the United States," passed Feb. 20, 1812; and the act of Congress entitled "An Act in addition to an act for the more convenient taking affidavits and bail in civil causes depending in the courts of the United States," passed March 1st, 1817; and the act entitled "An Act to establish the Judicial Courts of the United States," passed Sept. 24th, 1789, did call, and cause to be and personally appear before me at the house of John Hale, in the County of Washington, in the District of Texas, in the State aforesaid, John Hale, to testify, and the truth to say on the part and behalf of the libellant or plaintiff in a certain suit or matter of controversy now depending and undetermined in the District Court of the United States for the District of Texas, wherein Henry W. Rhodes is complainant or libellant, and the Steamship Galveston, her tackle, apparel, furniture, &c., and John R. Crane, and all others having or claiming any interest therein, are defendants. And the said John Hale, being about the age of 29 years, and having been by me first cautioned and sworn to testify the truth, the whole truth, and nothing but the truth, in the matter of controversy aforesaid, I did carefully examine the said John Hale, and he did, therefore, depose, testify, and say as follows, viz:—

Answer to first interrogatory: I did on the 9th day of December, A. D. 1849, start on board the steamship Galveston from the port of New Orleans to make a voyage to the port of Galveston in the State of Texas. One Dr. Rhodes, who I suppose to be the libellant, did perform said voyage from said port of New Orleans to said port of Galveston with me and others. The said vessel arrived at Galveston on Wednesday, and, if I am not mistaken in the day of the month, it was on the 12th. We started on Sunday.

Answer to second interrogatory: Doc. Rhodes did have a large number of negro slaves on board said vessel during said voyage. I think he had fifty or sixty. I first saw said slaves as they were going to the wharf, at which the steamship Galveston then lay, in the port of New Orleans. It was late on Saturday evening, the day before said steamship left New Orleans, on said voyage.

Answer to third interrogatory: Said slaves were taken on board

3628.

said steamship Galveston on Sunday morning, between 10 and 11 o'clock. They came on board but a very few minutes before the vessel shoved off from the wharf; I don't think more than five. I saw the slaves on the wharf, late on Saturday evening, and again early on Sunday morning, and supposed they were there all night. They were on the wharf at which said steamship Galveston then lay. There was a considerable quantity of freight put on board said steamship whilst the said negroes were waiting on the wharf. I do not know by whose order the luggage and bedding of the negroes was taken on board, or how it was stowed away, or by whose order it was stowed away. When I saw them on the wharf, they seemed to have a sufficiency of bedding and luggage for their comfort, but on said vessel they seemed to be greatly deficient in necessary bedding, blankets, &c. The luggage and bedding of the negroes was put on board but a very short time before the negroes came on board. I don't think it was more than fifteen minutes.

Answer to fourth interrogatory: I think the steamship left on the same day on which the agents told me she would leave.

Answer to fifth interrogatory: Said steamship Galveston did continue to receive freight on board up to a very few minutes before she left the wharf, at New Orleans, on said voyage. The freight was of various kinds—bales, boxes, sacks, wagons, &c. There were four asses and forty or fifty sheep taken on board before my negroes would be permitted to go on board. I do not know that Rhodes's slaves were prevented from going on board earlier, but presume they were. The slaves were about the last things taken on board before the boat left. Said slaves were waiting on the wharf all the morning. I am of the opinion that said vessel was overloaded. The matter was frequently spoken of among the passengers, and it seemed to be the general impression she was very much crowded with freight. I do not think room could have been found to stow much more freight on the vessel.

Answer to sixth interrogatory: The said steamship was so much crowded and filled up with freight of various kinds—boxes, bales, barrels, asses, and sheep, that said slaves had not sufficient space or room to lie down or move about, but they were compelled to stow themselves about, on, and among the freight, as they could. They were, owing to the crowded state of the boat, confined to a very small space during the voyage, so much so that their situation was comfortless.

Answer to seventh interrogatory: Said slaves had no suitable and proper place to occupy on board said vessel. All that space usually occupied by deck passengers on said vessel was so much filled up with freight, that but very little room was left for the said slaves and other deck passengers to occupy. They were consequently very much crowded together and confined. There was no room left for them to exercise. The only open space which was out of the weather, was a narrow passage in each gangway, not sufficiently wide for two

persons to pass each other with anything like convenience. In these narrow passages, and on the freight stowed in said gangways or passages, the slaves were confined. The constant passing and repassing of persons along these passages, in a great measure prevented the negroes or deck passengers from occupying them. The asses and sheep occupied the forward part of the vessel, with a small space between the asses and sheep. The part of the vessel occupied by the asses and sheep was exposed to the weather, and was constantly wet during the voyage.

Answer to eighth interrogatory: I saw two slaves which were said to belong to Dr. Rhodes, and of which he had charge, sick on board; they were taken sick after the boat left New Orleans; at least none of them appeared to be unwell when they came on board at New Orleans; I saw no dead negroes on the vessel, but understood that two of them died; I think that such sickness and death was caused by the want of proper and suitable accommodations, and from exposure to the inclemency of the weather. It is my opinion that if said slaves had had sufficient room to lie down and use their bedding, such sickness would not have occurred; I saw a sick negro in the cabin, near the stove, some time late in the night, on Tuesday night. I did not go near the negro; he was lying by the stove, wrapped up in a blanket, perfectly still; I do not know what his condition was; I saw him again early on Wednesday morning, lying in the hatch, immediately in front of the ladies' saloon, in a very exposed place, and in my opinion a very improper place for a sick negro; there was a constant draft of air over him; I heard no conversation between said Rhodes and said Crane, in relation to said negro.

Answer to interrogatory ninth: I do not think said slaves were treated with ordinary care by the master and officers of said vessel, during said voyage, and think the sick negroes could, without any very great inconvenience, have been much more humanely treated than they were, if the master or officers of said vessel had made any exertion to do so, notwithstanding the crowded state of the boat. The master and officers of said steamship treated said slaves with great carelessness and neglect, and did not seem to make any exertions whatever to mitigate the sufferings of said slaves, or protect them from exposure during said voyage; I have no doubt that such sickness and death of said negroes might have been prevented, had said slaves had proper room to take rest, and move about, and exercise, so as to keep warm. The negroes were so crowded as to be compelled to keep in one posture, nearly all the voyage; many of them I do not think, had a chance properly to lie down during the voyage.

Answer to tenth interrogatory: Said slaves were rendered very uncomfortable by reason of the manner in which the boat was crowded with freight; and it is my opinion that the exposure and discomfort which said slaves were thereby subjected to, would be exceedingly liable to, and did injure their health and endanger their lives.

Answer to eleventh interrogatory: Some of said negroes were sick

on said voyage; saw Crane or the other officers of the vessel paid no attention to them; I do not think said Crane or the other officers of said vessel either aided or assisted said slaves so sick or ill; at least I saw no assistance given them by any of the officers of said vessel, nor did they or any of them facilitate others in so doing, to my knowledge; I think that the sick negro who was placed on the hatch, as before stated, was unnecessarily exposed; I do not know by whose order he was placed there. The said sick slaves were treated with great carelessness, which, under the circumstances, I think was inhuman. I do not know that said Crane prevented others from aiding or relieving such sick negroes, farther than by neglecting to provide for their comfort.

Answer to twelfth interrogatory: When I first saw said slaves they seemed to be in good health and condition; I think they were greatly injured by reason of not having a proper place to occupy on said vessel, and for want of proper care and attention during the said voyage, by the master and officers of said vessel. His, Crane's, general conduct was total neglect and carelessness of the comfort of said slaves; he paid no attention to their wants whatever. The said slaves received no greater care and attention from the master or officers of said vessel, than did the asses and sheep on board her. I was very frequently among the negroes during the voyage and saw them frequently.

JOHN HALE.

Sworn to and subscribed before me this 2d day of February, A. D. 1849.

JOHN S. JONES,
Com'r U. S. D. C., D. T.

Answer to cross-interrogatory first: I am twenty-nine years old, and am now a farmer; I have been a farmer about one year; I have resided where I now reside but about a month; I formerly resided in Montgomery, in the State of Ala. I first became acquainted with libellant, Doct. Rhodes, on a voyage from New Orleans to Galveston on board the steamship Galveston, in December last; I became acquainted with Captain Crane, of said steamship Galveston, at the same time. My acquaintance with Capt. Crane is very limited.

Answer to second cross-interrogatory: Said steamship Galveston left New Orleans for said Galveston on Sunday morning, which, to the best of my knowledge and belief, was the 9th day of December, A. D. 1849. The night previous to the day of departure of said vessel was rainy, and it continued to be wet and cloudy during all of the day of our departure on said voyage, but not cold. I had then been in New Orleans five days. The health of the city was at that time apparently good; I was told that there was some cholera there, but that it was not epidemic—I saw no case of it myself.

Answer to third cross-interrogatory: The said slaves were taken

on board said steamship on Sunday morning, a few minutes before she shoved off from the wharf at New Orleans on said voyage to Galveston. I heard they came from Pickens County, in the State of Ala. Myself, as well as several other persons than said libellant, had slaves on board said steamship during said voyage; all the slave deck passengers were taken on board on Sunday morning at the port of New Orleans, I think between ten and eleven o'clock. I saw no difference in the treatment of the negro deck passengers by either the master or other officers of said vessel on said voyage.

Answer to fourth cross-interrogatory: I would not have suffered a gang of negroes belonging to me, or of which I had the charge, to remain out without shelter on such a night as was the night next preceding the day of our departure from New Orleans on said voyage, if I could have prevented it. I do not think that shelter could have been procured for one hundred negroes in the time Dr. Rhodes had to do it in after he brought his negroes to the wharf. My reason for thinking so is, that myself and brother found it difficult to obtain shelter for ours whilst in the city; we were all of one day seeking shelter for them, and it was with difficulty we obtained it; we could not then get a house separate from other negroes for them; we were permitted, as a favor, to put ours among the slaves of a negro trader, who had partially sold out. We went on board, as did also the other passengers, deck and cabin, on Sunday morning between ten and eleven o'clock, the day that said steamship left said New Orleans on said voyage. I and my brother contracted for our passage with Harrison and Morgan, the agents of said vessel, some three or four days previous to her departure on said voyage. I did not suppose that the officers, owners, or agents of said vessel were precluded from taking other freight and passengers after I had engaged mine, provided the vessel was not filled; but I do not think the master, owners, or agents had any right to take a greater number of passengers than she could properly accommodate, or more freight than they could safely carry.

Answer to fifth cross-interrogatory: I do not know the tonnage of the said steamship Galveston, or what number of barrels by measurement is a full cargo for her. I have made the trip between New Orleans and Galveston but once, and that on board said steamship Galveston in December last. It was cold and wet during most or all of the said voyage from said New Orleans to said Galveston; there were a good many white deck passengers on board said steamship Galveston during said voyage. In addition to the negroes of libellant, Rhodes, who were sick, one of the negroes myself and brother had on board, was sick, I think, from cold and exposure. There was much sea-sickness among the passengers; with the exception of the then sick negroes, I know of no other sickness among the passengers than sea-sickness.

Answer to sixth cross-interrogatory: I did not see enough of the negroes who were sick to say what the symptoms were, except our

own, who seemed to suffer from cold, and was much cramped from being compelled to remain in one position a long time without change of posture, or exercise. I think there were seventy or eighty cabin passengers on board said steamship during said voyage. I think that if no objection was made to it by the passengers, situated and exposed as the negroes were, who were on board, that it was quite proper to place a negro sick with the cholera or other disease near the cabin fire, as that was the only place that they could be made comfortable, or where one could hope to save their lives. The vessel was so much crowded with freight that they could not be made comfortable in any other place I saw. I deem it the duty of us all to use every exertion in our power to alleviate the sufferings or to save the life of a human being.

Answer to seventh cross-interrogatory: I did not see or did not know of said Rhodes taking a sick negro into the cabin of said vessel; I saw a negro lying near the stove in the cabin, but do not know who put him there. I think that, under the circumstances, I would have taken such a liberty, and I would have considered it inhuman to have objected to it, or to have prevented it. Situated as the negroes were, I do not think that any Christian or person of proper feelings of humanity, would have objected to it. I do think that the master or officers had a right so to put a sick negro in the cabin of the vessel, if the measure was not objected to by the passengers. I think, and so understood it, that deck passengers on board said steamship on said voyage, were entitled to all that space forward of the wheels on deck, or so much thereof as was necessary for their comfort and convenience.

Answer to eighth interrogatory: I did not see the luggage, bedding, and other things which I supposed to belong to said Rhodes, taken on board; and do not know whether he, or any other person representing him, was present when it was put on board. I do not know on what day said articles were put on board. I saw said negroes when they went on board said steamship. They were well clad, and not dirtier than negroes usually are when travelling.

Answer to ninth cross-interrogatory: As before stated in my answers to direct interrogatories, the only cruel, harsh, or improper treatment which I saw said slaves receive from the master or officers of said vessel, consisted in a total carelessness and neglect of their comfort and well-being; this neglect and carelessness was common to all the slave deck passengers on board said vessel, and continued throughout the passage. I saw the negroes eating several times, but did not particularly observe what kind of food they had, and do not know who furnished it. I do not recollect any particular person who was present at such times; they eat publicly.

Answer to tenth cross-interrogatory: From the time we left the mouth of the Mississippi, the weather during the voyage was continually boisterous and rough; I think that it required the constant care and vigilance of said John R. Crane, master of said vessel, in

looking out for the safety of the vessel, her cargo, and the passengers, and in the navigation of the vessel. I think he did faithfully discharge his duties as master of said vessel. In other particulars I do not think he did perform his duty as such master.

Answer to eleventh cross-interrogatory: I first heard of this suit in Galveston some two or three days after I arrived there. I remained in Galveston six or seven days after I landed there from said vessel from said voyage. I spoke to Mr. Swett about it. I was introduced to him by Doctor Rhodes some days after my arrival at Galveston. Doctor Rhodes informed me that he had instituted the suit, and said he wanted my deposition or testimony; it was after that he introduced me to Mr. Swett. I did not hear of the suit until after it was commenced, as I was told. I was interrogated by Mr. Swett, and I believe he reduced my answers to writing, or made notes thereof. This was done at the request of Doctor Rhodes.

JOHN HALE.

Sworn to and subscribed before me this the 2d day of February, A. D. 1849.

JOHN S. JONES,
Comm'r U. S. D. C., D. T.

The following deposition of J. E. Wilson was read in evidence, on the part of the libellant, at the hearing of this cause, to wit:—

UNITED STATES OF AMERICA,
District of Texas:

COUNTY OF BRAZORIA,
State of Texas, ss:

Be it remembered, that on this the sixteenth day of February, in the year of our Lord 1850, I, John S. Jones, a commissioner duly appointed by the United States District Court for the District of Texas, under and by virtue of the acts of Congress entitled, "An Act for the more convenient taking of testimony and bail in civil causes depending in the courts of the United States," passed February, 20, 1812, and the act of Congress entitled An act in addition to an act entitled an act for the more convenient taking testimony and bail in civil causes depending in the courts of the United States," passed March 1, 1817; and the act entitled "An Act to establish the Judicial Courts of the United States," passed September 24, 1789, did call and cause to be and personally appear before me, at the house of C. Leonard, in the County of Brazoria, in the District of Texas, in the State aforesaid, J. E. Wilson, to testify and the truth to say, on the part and behalf of the libellant, in a certain suit or matter of controversy now depending and undetermined in the District Court of the United States, for the District of Texas, wherein Henry W. Rhodes was complainant or libellant, and the steamship

3131.

Galveston, her tackle, apparel, and furniture, &c., John R. Crane and all others having or claiming any interest therein, are defendants, and the said J. E. Wilson, being about the age of — years, and having been by me first cautioned and sworn to testify the truth, the whole truth, and nothing but the truth, in the matter of controversy aforesaid, I did carefully examine the said J. E. Wilson, and he did thereupon depose, testify, and say as follows, viz:—

Answer to first interrogatory: I did on or about the 9th day of December, A. D. 1849, start from the port of New Orleans, in the State of Louisiana, on board the steamship Galveston, to make and perform a voyage to the port of Galveston, in the State of Texas; libellant, Henry W. Rhodes, did perform said voyage on board said steamship in company with me and others; to the best of my recollection said vessel arrived at Galveston on Wednesday or Thursday, about the 12th or 13th of December, A. D. 1849.

Answer to second interrogatory: Said Henry W. Rhodes did have a large number of negro slaves on board said steamship Galveston during said voyage. I think he had about seventy or eighty slaves on board; and I first saw them on the wharf previous to their coming on said vessel.

Answer to third interrogatory: Said slaves were taken on board said steamship just as she was about to leave the wharf; they were the last things taken on board before the departure of the vessel on said voyage. I first saw said slaves about two hours before the boat left; they were then camped on the wharf. I do not know how long they had been on the wharf when I first saw them; said slaves were camped on the same wharf at which said steamship lay, near her bow; freight was continually being taken on board said steamship all the morning of her departure on said voyage, up to a very few minutes before she left the wharf; as soon as they ceased to take freight on board, the slaves were taken on board; the lines were loosened, and the captain rang the last bell, whilst the slaves were getting on board. I saw some of the mariners belonging to said steamship putting some of the luggage belonging to said Henry W. Rhodes's negroes on board, but did not see it stowed away; the said luggage was carried on board the same time the negroes came; there may have been other luggage than that which I saw.

Answer to fourth interrogatory: Notice was given, I think by publication in the newspapers, that said steamship would leave one day earlier than she did leave. I went on board on the day before her departure, and was then informed by the clerk or captain that the departure of the vessel was postponed until the next day.

Answer to fifth interrogatory: As before stated, said steamship Galveston did continue to take and receive freight on board up to a very few minutes before her departure on said voyage to said Galveston; there were some sheep, and I think three asses, together with other freight, taken on board before said negroes were permitted to come on board. The slaves were on the wharf at the time the

sheep and asses were taken on board. Said vessel was overloaded with freight, and more passengers on board than she could accommodate.

Answer to sixth interrogatory: Said steamship was so filled up and crowded with boxes, bales, crates, &c., together with jackasses and sheep, that said slaves could not and did not have sufficient room and space to lie down upon, move about, or even stand upon the decks of the vessel; the forecastle, or that part of the boat forward of the clerk's office and the engine, was occupied by the asses and sheep; the gangways or passages on each side of the engine were stowed with freight within about four feet of the upper deck or ceiling, leaving a narrow passage just sufficiently wide for one person to pass along; and upon the freight thus stowed in the gangways or passages the negroes of said Rhodes were put; there was little or no room for them forward, and the only places left for said slaves were those above described, on the freight in the gangways.

Answer to seventh interrogatory: Said slaves had no suitable or proper place to occupy on board said vessel, either for their comfort or for their protection from the weather; said slaves were very much crowded together in a very narrow small space on the freight in the gangways on each side of the engine, to which place they were confined during the whole of said voyage.

Answer to eighth interrogatory: Some of said slaves were taken sick during said voyage; two of them died on said voyage, a negro girl, and a young man, a mechanic. In my opinion, such sickness and death was caused by exposure and want of proper room and comfort whilst on board said vessel; my reason for this opinion is, that said slaves came on board said vessel in apparent good health, and whilst on board said vessel were confined to so small a space that they could neither lie down in any comfort or move about, but were compelled to remain almost all the time in one position, without it being possible, owing to the manner in which the boat was crowded with freight, for them to take necessary exercise, and for the reason that they were very much exposed to the weather. Some time in the night before the day of our arrival at Galveston, libellant, Henry W. Rhodes, and his overseer carried, or had carried, a negro man into the cabin, and placed him near the stove. The negro was nearly chilled to death. They administered medicine to him whilst there; the negro was nearly dead at the time with cold. I did not hear anything that Capt. Crane said at the time concerning the negro being in the cabin, nor did I hear any conversation between Capt. Crane and Doct. Rhodes in relation thereto.

Answer to ninth interrogatory: The master and officers of and on board of said vessel were entirely regardless of the comfort of said negroes; and the said master and officers of and on board said vessel did not, in my opinion, give said slaves that care and attention, or treat them with that humanity, that they should have done during said voyage. The carelessness and neglect with which said slaves

were treated under the then existing circumstances amounted to cruelty; the neglect of the master and those in authority on board said vessel to provide suitable quarters for said slaves to occupy, and to afford them necessary protection from the weather being, in my opinion, the cause of their sickness, sufferings, and the death of some of them.

Answer to tenth interrogatory: Said slaves were rendered very uncomfortable, and were very much exposed by reason of the great amount of freight and other things on board said steamship, and the manner in which said slaves were crowded together and cramped up did, in my opinion, injure the health and endanger the lives of said slaves, and was, I have no doubt, the cause of the death of two of them.

Answer to eleventh interrogatory: Within my knowledge, no aid was given to any sick negro on board by the master or officers of said vessel (some of said negroes were sick on said vessel during said voyage); nor did said Crane, or any of the officers of the boat, facilitate others in aiding or relieving any such sick negroes, that I either knew or heard of. I do not know that he, said Crane, prevented any other person from aiding or relieving any such sick negro slaves. I heard that Crane ordered the negro to be taken out of the cabin.

Answer to twelfth interrogatory: Said slaves appeared to me to be in good health when they came on board the said steamship. Said slaves were very much injured by reason of not having a suitable place to occupy on board said vessel during said voyage, and from the treatment and neglect they received whilst on board said vessel. The master and officers of and on board of said vessel treated said slaves with carelessness and neglect, and seemed to be entirely regardless of their comfort and well-being, and, so far as I could see, gave them no attention whatever.

J. E. WILSON.

Subscribed and sworn before me this sixteenth day of February, A. D. 1850.

JOHN S. JONES,
Com'r U. S. D. C.

Answer to cross-interrogatory first: I am about thirty-four years old. I am at present a farmer. I have resided at this place about ten years. I formerly resided at the parish of Iberville in the State of Louisiana, in Bayou Plaquemine. I have been a sort of a farmer most of the time since I came to Texas. I first became acquainted with Henry W. Rhodes on board the steamship Galveston early in December, 1849, on a voyage from New Orleans to Galveston. I have known John R. Crane some years. I have on several occasions made passages to and from New Orleans to Galveston on board of boats which he commanded.

Answer to cross-interrogatory second: To the best of my belief,

said steamship Galveston left the port of New Orleans on Sunday, the ninth day of December, A. D. 1849. The weather was warm and wet when we left. I think that some rain fell the night previous to the day of our departure upon said voyage. I had been in New Orleans about ten or twelve days at that time. The city was reported to be perfectly healthy. I heard of no cholera then whilst I was in the city. The city was reported healthy, and so seemed to be.

Answer to third cross-interrogatory: Said negroes were taken on board of said vessel at the port of New Orleans on the day that said steamship Galveston left that port on a voyage to the port of Galveston, on or about the ninth day of December, A. D. 1849, whilst the captain was ringing the last bell before shoving off from the dock. I do not know, of my own knowledge, what State said slaves were brought from, or when. Other persons than libellant, Henry W. Rhodes, had slaves on board said vessel during said voyage; how many I do not know. I do not know when they came on board. All the slaves I saw come on board, came in at the same time. I know of no difference in the treatment of the slave deck passengers; there were some slaves in the cabin who were much better treated than those on the deck, not being exposed to the weather, and otherwise more comfortable. I am the owner of 24 slaves.

Answer to fourth cross-interrogatory: I would not have permitted a gang of negroes belonging to me, or of which I had charge, to remain out on the wharf at New Orleans on such a night as was the night previous to the day of our departure on said voyage, without shelter. I do not know whether shelter could or could not have been procured; that would very much depend upon the time one had to do so in. No shelter could have been procured within less than a mile or two from the steamboat-landing where the Galveston lay, in my opinion. I first went on board said vessel on the day previous to the departure, and was then informed the vessel would not leave as advertised, but would leave on the next day. On the next day (as I think Sunday the ninth of December, A. D. 1849) I went on board at about nine o'clock, A. M. The other passengers came on board on the same morning. I made no contract for my passage; I went on board and paid my passage when the boat got under way. I do not know that the master or owners would be precluded from taking any other or more freight or passengers after I came on board or not, provided he could safely carry the one or afford accommodation for the other.

Answer to fifth cross-interrogatory: I do not know the tonnage of said steamship Galveston, or how many barrels by measurement is a cargo for her. I have made the passage some five or six times, from 1840 to the present time, between New Orleans and Galveston, to and fro. I travelled on the Portland, New York, Galveston, Palmetto, and the Neptune; also several times on sail craft; there were some few white deck passengers on board said vessel during said

voyage, how many I do not know. I know of no other sickness than sea-sickness, except among the slaves of said Rhodes.

Answer to sixth cross-interrogatory: I did not examine any of the sick negroes, except the one that was brought into the cabin; he seemed to be very much chilled and cold. I think there were about 70 cabin passengers on board said steamship during said voyage. I would not under ordinary circumstances consider near the stove in the cabin of said steamship a proper place to put a sick negro deck passenger, but, under the circumstances then existing, I deemed it not only proper for Rhodes to take his negro into the cabin, but humanity required it, as the cabin stove was the only place I knew of where the negro could be warm.

Answer to seventh cross-interrogatory: I knew said Rhodes took a sick negro into the cabin of said vessel; I would have taken such a liberty under the then existing circumstances; some of the passengers would probably have been dissatisfied with such an act, others would not. I think the master and officers would have been compelled, if properly discharging their duty, to provide some warm place to put a sick negro, sick as was the one taken into the cabin, but do not know whether they had or had not strictly the right to place him in the cabin. I consider all that portion of the vessel forward of the shaft on the main deck as the proper place for deck passengers. I think that deck passengers on board said vessel during said voyage were entitled to all that space in the gangways, and on the forecastle forward of the shaft, or so much thereof as might be necessary for their comfort from any other obstruction.

Answer to eighth cross-interrogatory: I saw some luggage coming on board with said negroes, but do not know what disposition was made of it or where it was stowed. I was not acquainted with Rhodes at the time, but presume he was present as the boat was just about to start. I do not know whether or not he knew what was done with the said luggage; all that I saw of said luggage come on board, came with the negroes on the day of the departure of said vessel. I saw said negroes come on board; they seemed to be in good health and lively spirits; they were as well clad and as clean as negroes are commonly.

Answer to ninth cross-interrogatory: I cannot speak to any physical act of cruelty or bad treatment of the master or officers of said vessel towards said slaves, but think said master and officers treated said slaves inhumanly in not providing proper and comfortable room for them to occupy on said voyage. I did not see said Rhodes furnish said negroes with any food, and do not know what kind of food they were furnished with, or by whom they were furnished with food.

Answer to tenth cross-interrogatory: The weather was very bad and the sea was very rough during all of said voyage from the mouth of the Mississippi, until the morning previous to our arrival at Galveston, but there would have been less sea if the master of the vessel had kept close to the land, as many of the passengers directed him to

do; the wind was from the north and off the land. Said vessel stood out to sea an unusual distance during said voyage; it required his undivided attention in looking out for the safety of the vessel situated where she was; but I do not think said John R. Crane did faithfully discharge his duty as such master, in standing so far out at sea when both the safety of the vessel and the comfort of the passengers on board her would have been much increased by running close under the land, as he could have done for a great part of said voyage.

Answer to eleventh cross-interrogatory: I first heard of this suit, or saw a notice of it, in a Galveston newspaper. It was the monition or notice to claimants and owners of said steamship. I remained in Galveston, after landing from said steamship, about a day and a half or two days. I have never had any conversation with any other person than the libellant, about this suit. I heard some of the passengers say the libellant ought to sue the boat for such treatment and neglect. I made a written statement to Mr. Rhodes, the libellant, at his request, of such circumstances as I could recollect concerning the treatment of such slaves during said voyage.

J. E. WILSON.

Sworn to and subscribed before me, this the 16th day of Feb., A. D. 1850.

JOHN S. JONES,
Commissioner.

(*Testimony in behalf of the Respondents.*)

The respondents in this cause produced the following witnesses at the trial of this cause, and the evidence of said witnesses was reduced to writing in open court, as follows, to wit:—

HENRY W. RHODES
vs.
STEAMSHIP GALVESTON.

Captain Jeremiah Smith, witness for respondents, sworn:—

Has been captain of steamship Palmetto, running from New Orleans to Galveston, between three and four years. The Galveston's tonnage is about five hundred tons; is larger than the Palmetto. He has been in the habit of taking on board his vessel deck passengers. There is no regular space allotted to deck passengers; they are always subject to be removed from point to point, as emergency may require in the conduct of the vessel. Negroes and whites are all considered deck passengers, and have the same privilege as to space allotted them, and have the space forward the shaft, where goods, stock, &c., are stowed. Galveston can carry from three to four hundred passengers. He has carried in the Palmetto, from New Orleans to Vera Cruz, four hundred and fifty soldiers. It is the custom to furnish deck passengers with sufficient space, water, and privilege of

3/34.

cooking in the galley, when it can be done consistently with the comfort of the cabin passengers. The time of passage from New Orleans to Vera Cruz is usually four days; from New Orleans to Galveston forty-eight hours; deck passengers not allowed to come on board until about the time of the departure of the vessel, unless by the special permission of the captain. The reason of this rule is to prevent being too much crowded, on account of liability to disease, and their being in the way in taking on board the deck freight. This rule is sometimes relaxed, from motives of humanity. Since last December, several passengers have died on board Palmetto; some said from cholera, some said not. Cholera has prevailed, more or less, for the last eighteen months, in New Orleans. He has been commander of steam-vessels nearly twelve years, and in the habit of taking on board deck passengers. It is not the custom to take sick deck passengers in the cabin. Cabin passengers not allowed to come on board until about the time of sailing, but by permission of the captain.

Cross-examined.—Does not speak of the custom of sick deck passengers coming into the cabin from the custom on his vessel, but the custom in other boats. It has been his custom and habit always, so far as he could without interfering with his duty, always to relieve the sick. He believes he brought four hundred passengers, deck and cabin, from New Orleans to Galveston. Steam-vessels in the trade carry deck load as well as passengers. Is more comfortable for deck passengers to sleep on boxes and bales, under the covered way, than on the floor. Eighty deck passengers, with the usual deck freight, would not be uncomfortable. The deck freight adds to the comfort of passengers in protecting them from spray, &c., in cold and wet weather. Whether live stock is a comfort or discomfort to deck passengers, depends on the manner in which they are placed on the forward deck. Never put live stock, as a general rule, in the gangway in the trade from New Orleans to Galveston.

Capt. Jeremiah Smith recalled.—The Palmetto was at anchorage at Indianola from 9th to 12th; the weather was the worst, both from wind and cold, for forty-eight hours, that he had ever seen on the Gulf; was on board the iron steamer, near the wharf, and could not get to his vessel, three miles off. Does not believe, the state of weather considered, during the passage of Galveston, awning or tarpaulins on side of vessel for protection of passengers could have been kept up; has often had his doors to gangway stove in, and does not believe that any means at hand could be used to prevent the water from breaking into gangway. If there was no freight, passengers could not lie on floor of gangway in such weather as he believes existed. Passengers would be more comfortable on the freight. From two to four feet is sufficient from freight to deck, to lie down. No one allowed to go into engine-room but by permission of engineer. It is not customary in this trade to furnish stoves to deck passengers. They are in the habit of stowing any kind of cargo in

the gangway. In such weather, he would not have left the deck for the purpose of attending to sick deck passengers. It is not the duty of captain or officers to look after or attend sick. The price of cabin passage on Galveston is $15, trip. He believes that from one to four feet space from top of freight to ceiling would be sufficient to stow more than one hundred passengers, to sleep comfortably. They would be more comfortable with freight in the gangway than without it.

Cross-examined.—The width of gangway is seven or eight feet. The passage usually left in the gangway is about two and a half feet. He has never seen the time on his ship there was not room to lie down. The weather at Indianola and other places on the Gulf is often more or less violent, at different points. When freight is in the gangway it may be closed up by sliding the doors, and usually is. The passage-way is always necessary for officers, men, &c. to pass. The gangway is often filled with freight near the batten, and persons walk over.

The Globe and Portland steamships belong to Harris & Morgan.

Captain James Haviland, a witness for respondents, sworn, says: Has followed the sea and been captain of steam-vessels for fifteen years. Has commanded the Galveston in this trade, and steamship Ogam. Whilst in command, was in the habit of carrying deck and cabin passengers. In this trade, the general privilege of deck passengers is no other privilege than space and water. There is no particular space assigned them, but they occupy which is most comfortable for them forward of the shaft. He has always permitted them, in bad weather, to take places where they had no right to be, on account of their helpless condition. Always had deck freight on board; often so, when there was room in the hold. When there is no room in the hold, the deck is never so much incumbered with freight. It is his opinion that deck passengers are more comfortable when there is freight on deck then when there is none. If all the freight was stowed within two feet of the ceiling from saloon to forward deck, having a passway of two and a half feet, there would be room for 100 deck passengers to lie down and sleep, with the usual number of children on board—all the vacant space included, above the boilers and elsewhere, from the saloon to forward deck, which is the space usually occupied by deck passengers in bad weather. Has carried fifty horses on the Galveston, within the place there described, from New Orleans and from Mobile to Vera Cruz. The gangway is about eight week wide, eight feet high, and about sixty feet long on each side of the boat. Freight on the outside of the passage and inside could not be stowed with safety in rough weather, more than four feet high. It is stowed to be broader at the base than at the top, with the usual promiscuous freight. If square boxes, it might be stowed to the ceiling. The gangway in front of the saloon is from 26 to 30 feet across the boat; inside the guards the width is

about nine feet. There is also a vacant space over the boilers 12 feet wide and 20 long. This is forward the engine. All these spaces are under cover. During such weather as stated to have been on the voyage, an awning could not have been kept up over the forward deck, and no sufficient protection from spray or sea on the outside.

Captain Place, a witness for respondents sworn, says:—

Commands the Galveston; has followed seafaring life 36 years; two and a half years of that time in command of steam-vessels on this coast, and has been in the habit of carrying passengers and freight. Has commanded Portland and Globe. The habit of this trade is to take all the freight they can get, and furnish deck passengers with only water and room, leaving two and a half feet passage in the centre of passways from saloon to forecastle, and all vacant space stowed with freight within two feet of ceiling. There is abundant room for 100 deck passengers. The height of the freight makes no difference as to room for passengers, if there is room enough left to lie down. I have brought 194 negroes and 56 whites in the same space on this boat—heard no complaint, although they looked in a crowded state. Deck passengers are more comfortable on the freight than without it—at the same time I had as large a deck load of freight as could well be carried. During the trip alluded to, the space left from top of freight to ceiling was from two to three feet. Officers do not point out particular places for deck passengers. Each passenger selects his own place in the space allotted for them. They are removed if in the way, when the affairs of the vessel require it. The passway from saloon to forward deck on each side is about eight feet wide and eight feet high. The space over the boilers is about 12 by 20 feet. The gangway in front of saloon within the guards from side to side is about 26 feet, and from 8 to 10 feet wide. The rule of the boat is not to allow deck passengers abaft the shaft; sometimes they get there, but are ordered away. It is as comfortable abaft the shaft as forward. When he had the 250 passengers they were allowed that space. Freight could not be carried if stowed to the ceiling promiscuously in rough weather. It is generally stowed from four to six feet high. Deck passengers are not permitted to come on board until after all the freight is stowed. Negroes have less energy in sea-sickness than whites, and it is more difficult to make them remove from the place they lie.

Would not permit a sick negro to be taken into the cabin; nor would he allow it if he was a passenger; if a passenger took a sick negro into the cabin he would remove both; on the after-hatch is more comfortable for sick persons than any place allotted deck passengers, it is protected from wet by the combing; the Galveston, freighted as he has stated, would be sufficiently ventilated for comfort in the winter season, for 250 passengers. His opinion is founded

upon his own experience; from 9th to 12th December last, the weather was very rough and bad, extremely so; met the Galveston on voyage; the water then was breaking over forecastle; it was a severe norther and heavy sea; the night after I met her it was very cold; if cold enough to stiffen a mule or jackass, if dry, two or three blankets would make passengers comfortable; if wet otherwise; if forecastle had not been occupied by stock, passengers could not have occupied that space, on account of the severity of the weather.

Cross examined.—Is in employ of Harris & Morgan; has known the Galveston since she has been in the trade; she has always been engaged in carrying freight and passengers; the comfort to passengers on freight after it is stowed depends upon the manner it is placed; if smooth and well stowed it would be comfortable; if not, otherwise; persons on freight in gangway would not be in danger of getting wet. Northers create a high sea; the worst seas on the Gulf are produced from northers; under the land the sea is smoother in northers; and on this coast vessels may run so near the land as to make a smooth sea; the passway of two and a half feet is not a proper place for passengers; would not let a deck passenger in the cabin with the assent of the passengers under any circumstances; has other places as warm and comfortable for them. If the cabin passengers made no objections, and negro had cholera, would not permit him to go into the cabin to save his life.

Capt. Haviland recalled.—It is neither the duty or right to allow a sick deck passenger in the cabin; and if it was done he would have him removed; he would not allow it, but by the expressed consent of every cabin passenger aboard; freight stowed as stated, would allow sufficient ventilation for health; when close under land, the sea is smoother when northers prevail on Texas coast; on Louisiana, passing around Ship Island Shoal, the route is so far at sea as to make it rough, so much so that the vessel cannot be kept right; the after-hatch within the combing, is as dry as any place on deck; it is not protected from cold; I have in the summer season selected that place for the sick; if the weather door is shut, the after-hatch would be as comfortable as in the saloon, without fire; it is not the duty of captain or officers to nurse the sick; it is done only from motives of humanity; sea-sickness seems to prostrate negroes more than whites; they sometimes fall down, when the water rolls over them, and lie there, instead of taking their place on top of freight, where they would be dry; it is not usual to have stoves for accommodation of deck passengers.

Capt. Haviland cross-examined:

The passage-way left is for the use of passing and repassing: it is not a proper place for deck passengers to lodge. The comfort of passengers, where freight is stowed from one to four feet of ceiling, depends upon the manner of stowing it. Passengers would not get

wet on top of freight; the space occupied by the engine enclosed, is from 30 to 35 feet long, 12 wide—no person can occupy that space.

H. H. Williams, a witness for respondents, sworn, says:—

Has been at sea 20 years professionally; was master of vessels most of the time; has been accustomed for the last ten years, of travelling upon steamers; was on board the Galveston on the trip mentioned; was bad weather on the voyage, the second night exceedingly boisterous; rained on the morning the Galveston left N. O., and continued to rain in showers during the day; noticed a number of negroes on the wharf just before the boat left; it was raining, and negroes were standing on the wharf without shelter. He was on board an hour and a half before boat left; it was raining most of that time; these negroes came on board, and, from what has since transpired, he supposed them to be Dr. Rhodes's negroes; he noticed their clothing, jackets and trousers, to be dark mixed cotton and kerseys; does not think such clothing is calculated for severe cold weather. The weather was the roughest at sea he had ever seen on this coast; it was very cold the second night. They left the Pass in the morning; weather very unpleasant and rough; saw negroes on board during the voyage—they occupied the passways on the freight; saw them in front of saloon, and on after-guard by side of saloon; noticed some with blankets, some without; their clothes were wet, and he remarked to physician their clothes ought to be changed. This was the evening before they came in; they were evidently suffering from cold. I would suppose any person, white or black, situated as they were, would have had blankets upon them, if they had them; did not notice anything unusual in the manner of stowing deck freight, or its quantity; if it had been unusual, would have noticed it; recollects a negro being taken into cabin night before arrival; made no objection, but thought it improper; did not believe the case was cholera, but exhaustion from cold. He was removed by order of Captain about daylight; ladies being on board and up; he would not have consented that the negro should have been brought in the cabin. Did not see the negroes eat; he presumes that there would be no want of food. It is his opinion that if no freight had been on deck they would have been less comfortable. If they had dry clothing and blankets, does not think they would have suffered in a manner to endanger their health. The effects of sea-sickness is to make a person more susceptible of cold. Does not know what rights deck passengers have, nor what is custom. Does not think the negroes had cholera, but were prostrated from suffering from cold. Did not observe any improper conduct toward deck passengers, nor hear any harsh words about the removal of the sick negro from the cabin. If captain, he would undoubtedly have removed him. After arriving, observed a mule that could not stand. Had there been no incumbrance on forecastle deck, passengers could not have occupied it; the spray broke over the

vessel incessantly. Dunlavy came over since on Palmetto; saw them with a number of negroes on board one of the Houston boats.

Cross-examined.—Does not know whose negroes he saw on the after-guards; there were two or three of them; did not, during the voyage, pass through to the forward deck, but was as far as engine-room several times; was on the hurricane deck frequently; saw about half a dozen negroes in front of saloon, near the steps frequently, as he passed; supposes that if the negroes were wet when they went aboard, and had blankets enough, and a dry place to sleep in, thinks they would have got dry. It rained the night previous to departure.

Albert Ball, a witness for respondents, sworn, says:—

Has sold Dr. Rhodes from ten to twenty pairs blankets.

Daniel Marston, witness for respondents, sworn, says:—Went on board Galveston at the time Dr. Rhodes arrived in Galveston; has been in the habit, many years, of going on board boats when they arrive. Did not observe anything remarkable or unusual in the manner of stowing the freight. His attention was drawn to negroes being abaft the shaft, because it was unusual. Freight was stowed aft of shaft, and he saw negroes lying about upon it; did not know who they belonged to. If there had been anything remarkable in the stowing or quantity of freight, thinks he would have noticed it. The number he saw aft the shaft did not exceed twelve. Did not notice the condition of the negroes, nor whether they were sick; nor did he particularly notice the freight, having no concern with either. Had often seen more freight on Galveston and Palmetto.

Bartholomew Sconlon, a witness for respondents, sworn, says:—

Was on board the Galveston on the trip; worked his passage over as a deck hand; was on the boat on the night of the 8th December. The negroes came on board the boat about ten o'clock at night. He had them brought then because it had commenced raining. They slept that night in the gangways, and were ordered ashore in the morning. He saw no shelter for them on the wharf. It might have been later than ten, not so late as eleven. It rained enough in the morning to make it necessary to change his clothes. The passage, after they left the Mississippi, was the roughest and coldest he ever witnessed on the Gulf. He was on the deck all the time except when asleep; he was on the deck watch; the sliding-doors were kept closed, unless opened by hands passing; they were generally closed. He helped discharge the freight at Galveston. The deck passengers on this trip had privilege of gangway from saloon to forecastle, which is not usual. Did not notice white deck passengers aft the shaft, but saw negroes there.

There was sufficient room for all the deck passengers to lie down; the negroes had the best situation; saw Kennedy lie on the very highest part of freight; a great many of negroes appeared to be sea-sick; he knows all the negroes had not blankets; noticed that

particularly; observed them lying down without blankets; some of the men and women had no shirts on; they had rough kersey dresses, but no under clothes; the clothing of the negroes when they come aboard was miserably looking and dirty; saw the negroes eating about the galley all the time, and the pantry; saw one woman have fat pork and rice to eat; a jackass was prostrated with cold; the officers of boat was kind and attentive to every person, but the captain who was kept engaged all the time attending to his duties.

Cross-examined.—Passed frequently up and down the passways; heard no complaint of passengers but Kennedy and another; never saw negroes so ill-clad and so ill-found every way; did not have half the usual quantity of clothing; did not notice any awning on the wharf in the morning; nothing of that kind was raised there for the protection of negroes, or he would have seen it; the freight was so stowed as to make a smooth surface; the freight was raised five or six feet, about as high as the shaft; as the freight was stowed it was a comfortable place for deck passengers; it could not have been made more comfortable with the utmost care and attention.

Captain Haviland re-called on the part of respondents, says: The gangway in front of saloon is 10 feet wide, the length from bulkhead on forecastle deck to saloon, is 74 feet; a healthy able-bodied negro, 35 years old, is worth from $800 to $1,000; a woman of same description, 30 years old, worth $500; a negro girl 18 years old, of same quality, $600; their value depends upon their qualities; a good mechanic is worth more than one who has no trade.

No person, without the assent of engineer, has a right to occupy the engine room; it is his exclusive right to control its use; he does not mean to say that passengers do not sometimes go into the engine room.

George Ball, a witness for respondent sworn, says:—

Sold Doctor Rhodes in month of December, he thinks, 20 pairs blankets.

Dr. Gardiner, a witness for respondent recalled, says: Has been a physician 12 years; has known two decided cases of cholera on board boats from New Orleans; one on the 12th, and one on the 23d March last; four other cases had appearance of cholera; did not think it was; they had come over in a state of destitution; exposed to cold; had been laboring under diarrhœa some days; attributed their sickness to want of food, and cold; heard two of them died after they left for Houston; does not recollect any case of cholera from New Orleans, that came under his observation; if persons pass through New Orleans during a cholera atmosphere, any disease they might take would, in his opinion, have a tendency to run into cholera; if persons passing through New Orleans, well clad and in good health, if cholera was not prevailing there as an epidemic, they would not be apt to take disease if properly attended to.

Patrick Dwyer, a witness for respondent, sworn, says:—

Was passenger on steamship Galveston, between 9th and 12th Dec. last. Was a deck passenger. The weather was very rough; never have seen such. Has been at sea considerably; first from Ireland to England, then to New York, to Chagres, and several trips across the Gulf. He found plenty of room to lie down on top of freight, on sacks of corn, where he spread his mattress. He thought there was plenty of room for all the deck passengers; heard no one complaining; he found plenty of room for his mattress and trunk; went on board two hours before the boat left, which was about 11 o'clock. The sliding doors were generally closed; in the night time, mostly, they were opened for sailors and others to pass through. He occupied a place forward of the shaft. A space forward of the engine-room was not occupied by freight, but negroes occupied it. The negroes appeared to have the privilege of going where they would, from forecastle to the saloon. No leave given him to go abaft the shaft. Did not observe that freight was piled so high but a person could sleep upon it. If there was any such place, he did not notice it. They used river water on the voyage. Did not particularly notice whether negroes had blankets, but saw but few of them have them. The weather was such that if they had blankets they would have worn them. Saw some lying down without blankets, and some over boiler deck without blankets. He went there about 12 o'clock at night to warm his feet, and saw five or six there. From his observation, does not think there was a blanket for each negro on deck. It is more comfortable for deck passengers with than without freight in cold weather. He thinks all on board was more comfortable on the voyage, having the deck freight on board, than they would have been without deck freight. He was warmly and comfortably clad. Had blanket-coat, one blanket and mattress, and yet he suffered from cold. Did not see the negroes eat much; all appeared to be very sea-sick. Saw one or two eating food given by the cook. Saw no cruel or improper treatment of negroes by officers of the boat.

Cross-examined.—Did not notice that there was an unusual quantity of freight; was very comfortable, and slept well. Slept most of the night, occasionally waking up, his head to the forecastle; had cap on his head, and slept in it. Did not feel the wind blow on him; it did not wake him up; passengers would close the door; did not notice the negroes particularly. About sixteen or eighteen white deck passengers. Mr. Kenedy was a deck passenger. Heard no one complain of anything but sea-sickness. Negroes were not dry when they came on board; did not appear to be wet on the passage. There was more room than was wanted where he laid. Never spoke of his testimony to any one. A week before court, was interrogated by one of defendant's lawyers, who inquired if he had been a passenger on Galveston. Asked what treatment passengers received. Told him the negroes fared better than the whites. Does not think

3639.

the negroes had blankets. Did not see captain on voyage. Seemed to be plenty of room for persons to pass in the passage left between the freight. There was room for negroes to lie on top of freight outside the passage; saw five or six there. Noticed about fifty negroes on the wharf at 9 o'clock. The weather seemed to be clearing up; there was light showers before the boat left. Saw tarpauling lying on wharf. Was not wet when he went on board; the negroes were wet, and shivered; appeared to be cold. The night before had not been cold. Saw one of the negroes dead. Saw two persons with a sick negro; they left two negroes to rub him with brandy; so soon as the whites left, the negroes quit rubbing sick negro. Did not see the negroes have bacon or bread. When he went down to warm his feet, did not take his blanket with him. Heard some of the deck passengers say the negroes did not have sufficient clothing. Mr. Kenedy said so. Did once walk around ladies' saloon; went after water; saw negroes there; they were badly clad, and thinks they were deck passengers. Did not see white men paying attention to negroes but once, and then giving them medicine. Did not appear to him that there was more than the ordinary deck load of freight.

Doc. Gardiner recalled.—When cholera prevails in New Orleans, persons passing through and suffering from want of rest, cold, wet, &c., &c., it would be exciting cause of cholera. All these causes would not be likely to produce it, unless predisposing causes existed. Sea-sickness, unless with other existing causes, would not be exciting cause. When cholera is first developed on board a boat, he thinks it is the effect of predisposition on the part of the person before he came on board. Does not think that a case of cholera would occur on board, unless the seeds of the disease were in the patient. Passing through a cholera atmosphere will engender the cholera, so it will break out afterwards without any of the causes specified as having occurred on the Galveston. Too much weight has been given by all of the doctors who have testified to the occurrences on the boat. If the cholera was prevailing in New Orleans, negroes might pass through it on a bright sunny day, and go on board the boat and die of cholera without any further exposure.

The following commission was issued on the second day of February, in the year of our Lord one thousand eight hundred and fifty, to wit:—

UNITED STATES DISTRICT COURT,
District of Texas:

To any Commissioner of the United States authorized to take affidavits and bail in civil causes, to be used in Courts of the United States, and resident of New Orleans, and State of Louisiana:—

Know ye, that reposing special trust and confidence in your integrity and ability, we hereby authorize and require you, that you call and cause to come before you Hubert E. Bena, Peter Bogart, and B. F. Dabney, and them duly examine on oath, touching and con-

cerning certain matters and things in a cause now depending in the said Court in admiralty, wherein Henry W. Rhodes is libellant, and the steamship Galveston, &c., John R. Crane, master, and all others intervening, are defendants: and the examination so taken and reduced to writing, you certify under your hand and seal, and send enclosed to this Court without delay, to be read in evidence on the trial of this cause, and send also this writ.

Witness, the Honorable John C. Watrous, Judge of said Court, and seal of Court, at the city of Galveston, this 2d day of [SEAL.] February, A. D. 1850, and the seventy-fourth year of the Independence of the United States of America.

JAMES LOVE,
Clerk.

Interrogatories propounded to Hubert E. Buchner, Peter M. Bogart, and B. F. Dabney, witnesses to be examined in behalf of respondents, to wit:—

THE UNITED STATES OF AMERICA,
District of Texas:

In Admiralty.

HENRY W. RHODES
vs.
STEAMSHIP GALVESTON.

Interrogatories to be propounded to and answered by Hubert E. Bena, Peter Bogart, and B. F. Dabney, of New Orleans, in the State of Louisiana, before a proper Commissioner in this behalf to be named in the above entitled cause, now depending in the United States District Court for the District of Texas, in Admiralty, wherein said Henry W. Rhodes has exhibited his libel against said Steamship Galveston, her tackle, apparel, and furniture, and John R. Crane, late master of said steamship: and also against all persons lawfully intervening or claiming any interest in said steamship—said testimony to be taken on the part of said John R. Crane, late master of said steamship, and of Charles Morgan, John T. Wright, Israel C. Harris, and Henry R. Morgan, owners of said steamship; and to be used as evidence on the part of said parties on the trial of said cause. All of the following interrogatories to be answered by each and all of the above-named witnesses.

First interrogatory: Do you know Henry W. Rhodes and John R. Crane, or either of them? if yea, how long have you known each of said persons? When and where and how did you first see or become acquainted with said Henry W. Rhodes?

Second interrogatory: Do you know the said steamship Galveston? If yea, how long have you known said steamship? Who was master of said steamship during all the month of December last, up to the twentieth day of said month? What is the tonnage of said

steamship, and what number of barrels by measurement makes a full cargo for her? What is the greatest number of deck passengers that you have known at any and what time to have been transported on board of said steamship, and from and to where were they transported? What particular portion of said steamship was assigned to such deck passengers, and what did they occupy?

Third interrogatory: Who owned said steamship Galveston during all the month of December last, and who now owns her?

Fourth interrogatory: Was or was not said steamship Galveston at the port of New Orleans on the sixth, seventh, and eighth days of December last, and was she or not bound thence on a voyage to the port of Galveston? If yea, was any public notice given of the day or time when she was to leave said New Orleans on said voyage, and when did such notice state that she was to leave? What was your occupation or calling at that time, and what has it been ever since? Have you ever been employed on board a steamboat or boats? If yea, how long, where, in what trade, and in what capacity?

Fifth interrogatory: Were you or not in New Orleans on the sixth, seventh, eighth, and ninth days of December last? If yea, did you or did you not see said Henry W. Rhodes on any, and which of said days, in said New Orleans? Where was said Rhodes when you so saw him, and what was he about? Did you or did you not, on any, and which of said days, hear any conversation between said Rhodes and said John R. Crane about said Rhodes having some negroes transported on board said steamship Galveston, on said voyage from New Orleans to Galveston? If yea, state the conversation. Did said Rhodes on any, and which of said days, have any conversation with you about the transportation of said negroes as aforesaid, or about any matter connected with the transportation of said negroes? If yea, state the conversation. Did any other, and what person, than said Rhodes, acting for said Rhodes, have any conversation with you and said John R. Crane, or either and which of you, in relation to the transportation of said negroes? If yea, state the conversation and the capacity in which such person was acting for said Rhodes.

Sixth interrogatory: On what day of the month did said steamship Galveston leave said New Orleans on her said voyage to Galveston, referred to in the fourth interrogatory? On what day did the passengers go on board of said steamship for said voyage? On what day did said steamship arrive at said Galveston from said voyage? How many cabin passengers? How many white deck passengers, and how many negroes were on board said steamship during said voyage? Did or did not said steamship have on board, during said voyage, as many cabin and deck passengers as she could accommodate, and as much freight as she could carry? If not, state how many more cabin or deck passengers could have been accommodated, and how much more freight could said steamship have carried?

Seventh interrogatory: Did or did not said Rhodes have some

negroes on board said steamship during said voyage? If yea, how many, and on what day of the month, and where taken on board? When and where did you first see said negroes, and under what circumstances, and what white person, if any, was then with them or had charge of them? What was the appearance of said negroes as to health and clothing at the time they went on board of said steamship for said voyage? Had or had not said negroes been in said New Orleans just previous to the commencement of said voyage; and if yea, how long had they been there? What was the state of health in said New Orleans at the time said steamship left there on said voyage; and was or was not the cholera prevailing there at that time?

Eighth interrogatory: Do you know anything of any bedding, clothing and other articles which you suppose belonged to said Rhodes and to be for the use of said negroes? If yea, state when and where you first saw said articles of bedding, clothing, &c., and what orders, if any, and when and where given by said Rhodes, or his agent, about said bedding, clothing, &c. If yea, state the conversation fully, and with whom did you have it, and when and where? Did you hear any conversation between said John R. Crane and said Rhodes or his agent, about said bedding, clothing, &c.? If yea, state the conversation fully, and when and where did it take place.

Ninth interrogatory: What kind of weather was it during said voyage of said steamship from said New Orleans to Galveston? What kind of weather was the night previous to said steamship leaving said New Orleans, on said voyage; and where the negroes before referred to during said night, and what was their condition and appearance on the next morning?

Tenth interrogatory: Would you, or would you not have permitted a gang of negroes belonging to yourself, or of which you had charge, to have remained without shelter on the wharf at said New Orleans, during all of the night of such a night as was that next previous to the day on which said steamship left said New Orleans on said voyage? Could, or could not comfortable shelter have been found on said night, or any other night for one hundred negroes in said New Orleans?

Eleventh interrogatory: Did or did not said Rhodes or his agent, or both of them know before said steamship left said New Orleans on said voyage, what space or place was to be allotted to and occupied by said negroes, on board of said steamship during said voyage? If yea, how did either, and which of them, know about this matter, and from whom? State fully. Did or did not said negroes occupy such place during said voyage, and if not, what place did they occupy? and was the same better or worse for them, and in what respect? State fully.

Twelfth interrogatory: Do you know anything about any contract for the transportation of said negroes on said steamship, on said voyage? If yea, from whom did you get your information or knowledge, and how? Who was to feed said negroes; and what privileges

were they to have? State fully and particularly all that you may know about the matter.

Thirteenth interrogatory: Were or were not said negroes properly fed during said voyage of said steamship from said New Orleans to Galveston? If not, whose fault was it, and in what respect were they not properly fed? State fully about the matter.

Fourteenth interrogatory: Were or were not said negroes, during said voyage, provided with sufficient and proper bedding and clothing for a winter voyage on board said steamship, from said New Orleans to Galveston? If you answer in the negative, then state in what respect they were not so properly provided—whose fault was it? State fully about the matter.

Fifteenth interrogatory: In what manner were said negroes treated on board said steamship, during said voyage from said New Orleans to Galveston, by the master, other officers, and crew of said steamship, during said voyage? Were said negroes treated with neglect, or inhumanity or cruelty, or brutally, or in any unusual manner, or with any, and which of these, by the master, other officers or crew of said steamship, during said voyage? State fully and particularly about the matter.

Sixteenth interrogatory: Were or were not all of the deck passengers treated and used alike on board of said steamship during said voyage from said New Orleans to Galveston, by the master, other officers and crew of said steamship; if not, then in what respect did such treatment differ, by whom and toward whom? State fully and particularly. Did you hear any complaint from any of the white deck passengers about their treatment; if yea, from which of them and in relation to what?

Seventeenth interrogatory: Were there any greater or other privileges or liberties allowed or granted to the white deck passengers, than was allowed or granted to said negroes during said voyage on board of said steamship? If yea, how, in what respect, by whom and to whom?

Eighteenth interrogatory: What particular part or portion of said steamship Galveston is in all cases assigned to deck passengers in said trade between said New Orleans and Galveston? Describe the same particularly. Is it or is it not usual and customary to carry all horses, mules, and cattle that may be offered as freight on the same deck with deck passengers? What is the width of the passages or gangways running from the fore-deck to the after part of said steamship, and how many such passages are there, and what is their length?

Nineteenth interrogatory: What are the privileges and accommodations in all cases allowed and furnished to deck passengers on board said steamship Galveston, and other steamships in said trade between said New Orleans and Galveston, and who furnished the food and bedding for each passenger? State particularly.

Twentieth interrogatory: Was there any sickness or any deaths

amongst the negroes which you supposed to belong to said Rhodes on board of said steamship during said voyage from said New Orleans to Galveston? If yea, how many were sick, and how many died, and what was the nature of such sickness? Were any of the other deck passengers sick during said voyage? If yea, what was the nature of such sickness?

Twenty-first interrogatory: State particularly every fact and thing that occurred on board of said steamship during said voyage from said New Orleans to Galveston, in relation to the sickness or death of any one or more of the negroes which you supposed to belong to said Rhodes? What did you hear said Rhodes or his agent, and which of them, say about any such sick negroes? Did you do anything or cause anything, and what, to be done for any such sick negroes? Did you or the master of said steamship furnish any articles for the benefit of such sick negroes?

Twenty-second interrogatory: Did any of the negroes which you supposed to belong to said Rhodes suffer anything during said voyage from said New Orleans to Galveston, through the fault or neglect of the master, other officers or crew of said steamship? If yea, in what respect, and from whom?

Twenty-third interrogatory: Do you know or can you state any other matters or thing in relation to the matter of controversy in said suit that will be of any benefit or advantage to any of the parties therein? If yea, state the same fully as if more particularly interrogated in relation to the same.

F. H. MERRIMAN,
POTTER & POTTER,
Proctors for Respondents.

I, James Love, Clerk of the United States District Court in and for the District of Texas, hereby certify the foregoing to be a true and correct copy of the original interrogatories now on file in this office in the case of Henry W. Rhodes, libellant, against steamship Galveston, &c.

JAMES LOVE,
Clerk.

In Admiralty.

HENRY W. RHODES
vs.
STEAMSHIP GALVESTON.

The following cross-interrogatories are required to be answered by each of the witnesses, Hubert E. Bena, Peter Bogart, and B. F. Dabney:—

1. First cross-interrogatory: What is your age? What is your profession or calling? In whose employ are you? Where do you reside? How long have you resided in New Orleans? Where did

you reside? And what business did you follow before you resided in New Orleans?

2. Second cross-interrogatory: In what business and in whose employ was you on the 7th, 8th, 9th and 10th of December last past? Was you or not employed as an officer, a hand, or one of the crew of said steamship Galveston, or in some way employed, and in what way on board said steamship on and during said voyage from New Orleans to Galveston about the 10th of December, 1849? If yea, what berth or position, and in what capacity was you so on board said steamship?

3. Third cross-interrogatory: If you, in answer to any of the direct interrogatories, state any conversations with said Henry W. Rhodes and yourselves, or between said Rhodes and any other person, state who were present at said conversations. Name all the parties so present. When were said conversations, and each of them?

4. Fourth cross-interrogatory: Do you own, or have you owned negro slaves? If yea, how many; and when?

5. Fifth cross-interrogatory: Did you stay on board said steamship Galveston during all the night next before the departure of said steamship from New Orleans to Galveston about the 10th of December, 1849? Did you pass said night on board said steamship? If yea, was you employed in loading said steamship for said voyage, or in any other way employed on said steamship?

6. Sixth cross-interrogatory: Who first spoke to you about your testimony in this cause? And who have you talked with about said testimony or testifying in said cause? Name all the persons who have so spoken to you or with whom you have conversed.

J. A. SWETT,
Proctor for Libellant.

If the above named witnesses were either officers, composed a part of the crew or hands of said steamship during the voyage referred to, we object to any testimony of said witnesses, or either of them, touching the conduct of said Crane, or any of the officers or crew of said steamship during the voyage.

JOHNSON & SWETT,
Proctors for Libellant.

I, James Love, Clerk of the United States District Court in and for the District of Texas, hereby certify the foregoing to be a true and copy of cross-interrogatories as filed in this office in the case of Henry W. Rhodes, libellant, against steamship Galveston, &c.

JAMES LOVE,
Clerk.

The following depositions of Hubert E. Buchner, Peter Bogart, and B. F. Dabney were read in evidence in behalf of respondents at the hearing of this cause, to wit:—

UNITED STATES OF AMERICA,
E. District of Louisiana, City of New Orleans, ss:

Be it remembered, that on this 20th day of February, in the year of our Lord one thousand eight hundred and fifty, before me, M. M. Cohen, a commissioner duly appointed on the 19th April, 1842, by the Circuit Court of the United States in and for the Eastern District of Louisiana under and by virtue of the acts of Congress, entitled "An Act for the more convenient taking of affidavits and bail in civil causes depending in the Courts of the United States," passed March 1st, 1817, and the act entitled "An Act to establish the Judicial Courts of the United States," passed September 24th, 1789, personally appeared Hubert E. Buchner, a witness for the defendant (a person of sound mind and lawful age) in a civil suit now depending in the District Court of the United States in and for the District of Texas, wherein Henry W. Rhodes is plaintiff, and the steamship Galveston, &c. *et al.* are defendants. And the said Hubert E. Buchner being by me first carefully examined and cautioned, and sworn to testify the whole truth, and nothing but the truth, did depose and say:—

To the first interrogatory, that he knows Henry W. Rhodes and John R. Crane; he has known said Rhodes since the 6th of December last past, and has known said John R. Crane about thirteen years. Deponent first saw said Rhodes on the sixth of December, or thereabouts, at New Orleans. Deponent was clerk of the steamship Galveston, and said Rhodes came on board to make arrangements for the passage of himself and family and overseer, to Galveston with his slaves.

To the second interrogatory he answers, that he knows said steamship Galveston; he has known her about two years. Captain John R. Crane was master of said steamship during all the month of December last up to the twentieth day of said month. The tonnage of said steamship is five hundred and forty-eight tons (548). The number of barrels which by measurement make a full cargo for her is from four thousand to four thousand five hundred. The greatest number of deck passengers that deponent has known at any time to have been transported on board of said steamship was over four hundred; that was in July and August, 1848. They were transported from Vera Cruz to New Orleans. The particular portion of said steamship which was assigned to said passengers, and which they occupied, was the main deck.

To the third interrogatory he answers: Harris and Morgan owned said steamship Galveston during all the month of December last, and now own her.

To the fourth interrogatory he answers: Said steamship Galveston was at the port of New Orleans, on the sixth, seventh, and eighth days of December last, and was bound thence on a voyage to the port of Galveston. Public notice was given of the day or time

3642.

when she was to leave said New Orleans on said voyage, and said notice stated that she was to so leave on Sunday morning, the ninth of December. Deponent's occupation at that time was clerk of the Galveston. Since then deponent has been master of the Globe. He has been employed on steamboats two years, about, in New Orleans trade, as mate, and clerk, and now as captain.

To the fifth interrogatory he answers: That he was in New Orleans on the sixth, seventh, eighth and ninth days of December last. That he saw said Rhodes in New Orleans on every one of said days, he thinks. Said Rhodes was on the levee at the foot of Julia street, arranging about some baggage of some negroes that were to go on the Galveston, when deponent so saw him. Deponent did hear on Friday and Saturday, the seventh and eighth of December last past, a conversation between said Rhodes and said John R. Crane about said Rhodes having some negroes transported on board said steamship Galveston, on said voyage from New Orleans to Galveston. Captain Crane told said Rhodes to have the baggage selected out that he wanted kept for said negroes on deck for their use. Rhodes replied that all that was there was to go below; that the negroes had all that they wanted for the use of the voyage with them where they were staying. Capt. Crane then told him that after it was put below it would be impossible for them to get at it until they arrived at Galveston. Said Rhodes had a conversation with deponent on the eighth of December aforesaid, about the transportation of said negroes, and about their baggage: said Rhodes asked deponent where the place was that the negroes were to occupy. Deponent showed him the place on the deck, the forward deck. After said Rhodes came out of the cabin he asked deponent where said negroes were to sleep, to which deponent replied, wherever they could find the softest plank; that whichever got the softest plank was the best fellow. Rhodes then asked deponent what he had done with the baggage that had been brought down, and deponent told him that it was stowed away with the cargo; to which Rhodes answered, "Very well." Rhodes then asked deponent if he (Rhodes) could bring the negroes on board that afternoon; to which deponent replied, that he could not; that they could not come on board till the next morning; that we were busy taking in cargo and stowing the vessel, and that the negroes would be in the way; therefore we could not let them come on board that afternoon. He then asked deponent if the authorities would object to their remaining on the levee all night. Deponent told him that he did not think they would. He said they would then have to remain on the levee all night, because he would not take them back to where he had brought them from. Another person acting for said Rhodes, viz: Mr. Taylor, the overseer of Rhodes, had a conversation with me in relation to the transportation of the negroes and their baggage. Rhodes told deponent that anything Mr. Taylor did or said to the deponent about the negroes or baggage, was perfectly right; and that said Taylor would oversee the baggage and negroes. Said

Taylor marked all the baggage on the levee, and picked out two or three trunks that they wanted themselves in the cabin, which trunks were among the baggage. Said Taylor told deponent to put all the negroes' baggage that was on the levee, below, as they had with them all that they wanted to use on the voyage. Deponent told said Taylor, as he had told said Rhodes, that if the baggage was put below they could not get at it until their arrival at Galveston. Rhodes and Taylor were together, and deponent showed them the place which the negroes were to occupy. Deponent also told said Taylor that the negroes could not go on board until the morning.

To the sixth interrogatory he answers, that said steamship Galveston left said New Orleans on her said voyage to Galveston, referred to in the fourth interrogatory, on the ninth day of December last past, and on the same day, previous to nine o'clock A. M., the passengers went on board for said voyage. Said steamship arrived at said Galveston from said voyage, on Wednesday morning, December the 12th. The number of cabin passengers was about sixty; there were somewhere in the vicinity of eighteen or twenty white deck passengers; and there were sixty-six negroes belonging to said Rhodes, three to Mr. Kirby, and six or eight other negroes, belonging to other cabin passengers on board said steamship, during said voyage. Said steamship did not have on board during said voyage as many cabin and deck passengers as she could accommodate, nor as much freight as she could carry; she has since then, carried at least one-third more cabin and deck passengers, and four or five hundred barrels more freight, to the best of deponent's knowledge.

To the seventh interrogatory he answers: Said Rhodes had some negroes on board said steamship, during said voyage; they were sixty-six, as said Rhodes told deponent; they were taken on board on said 9th day of December, at New Orleans. Deponent saw the negroes all on Saturday, the 8th day of December last, on the levee at New Orleans; he saw some on Thursday previous. The negroes were then with Mr. Taylor, bringing the baggage down on the levee; the appearance of said negroes at the time they went on board of said steamship for said voyage, as to health and clothing, was miserable, Has carried a great many before, but never saw any so poorly clad as was the negroes of Rhodes, nor such a miserable looking set. Said negroes had been in New Orleans just previous to the commencement of said voyage; does not know how long they had been there. Does not know the state of health in New Orleans aforesaid, at the time said steamship left there on said voyage. There were a number of cases of cholera at New Orleans at that time.

To the eighth interrogatory he answers: That he knows nothing of any bedding, clothing, or other articles which belonged to said Rhodes, and to be for the use of said negroes, and no order was given by said Rhodes or his agent about the same. Deponent had no conversation with said Rhodes or his agent about said bedding, clothing, &c., unless the same was in the boxes that were put in the

hold; but they never told deponent that there was any bedding or clothing in said boxes. He did not hear any conversation between said John R. Crane and said Rhodes, or his agent, about said bedding, clothing, &c.

To the ninth interrogatory, he answers: That the weather was very rough and cold during said voyage of said steamship from said New Orleans to Galveston; the night previous to said steamship leaving said New Orleans on said voyage, was a very rainy night; it rained all night; it commenced raining in the early part of the evening. The negroes before referred to were, during said night on the levee; at least deponent at eleven o'clock that night saw the greater part of them there, and in the morning when he got up, they were there; they were all wet the next morning.

To the tenth interrogatory he answers: That he would not have permitted a gang of negroes, or even an animal belonging to himself, or of which he had charge, to have remained without shelter on the wharf at said New Orleans, during all of the night of such a night as was that next previous to the day on which said steamship left said New Orleans on said voyage. Comfortable shelter could have been got that night for three hundred negroes in the vicinity of the steamship landing, in New Orleans.

To the eleventh interrogatory he answers: That said Rhodes and his agent knew before said steamship left New Orleans on said voyage, the space and place allotted to said negroes on board of said steamship, during said voyage, and occupied by said negroes. They both were shown the place by the captain and deponent, previous to the negroes coming on board. In consequence of the severity of the weather, the women and children among the negroes of said Rhodes were allowed to occupy a better place than that allotted to them; it was next to the engine-room, and was a warmer place than that occupied by the other deck passengers.

To the twelfth interrogatory he answers: There was no contract, to the knowledge of deponent, except that said Rhodes showed deponent a piece of paper, where it was marked down, sixty-six negroes for one hundred and forty dollars, ($140.)

To the thirteenth interrogatory he answers: That said negroes were not fed at all during said voyage of said steamship from said New Orleans to Galveston; it was the fault of Mr. Rhodes and his overseer; they were to furnish the food for the negroes. The Galveston never carries negroes to find them, unless negroes taken in the cabin as servants.

To the fourteenth interrogatory he answers: That there was not sufficient bedding among the sixty-six negroes, to make six comfortable during the winter voyage to Galveston; it was the fault of Mr. Rhodes, or his agent. There is no bedding or bed furnished for deck passengers on the steamships; it is so understood always by the deck passengers, previous to coming on board.

To the fifteenth interrogatory he answers: They were treated in

a good manner; were well treated; they were not treated with neglect or inhumanity, or cruelty or brutality, or in any unusual manner by the master, other officers, or crew of said steamship during said voyage.

To the sixteenth interrogatory he answers: That all were treated alike, and he heard no complaint from any.

To the seventeenth interrogatory he answers: No.

To the eighteenth interrogatory he answers: The forward part of the deck, from what is called the promenade deck forward, it is usual to carry all horses, mules, and cattle that may be offered for freight, on the same deck with the deck passengers. The passages are about seven feet wide; there are two, and about seventy feet long, he thinks.

To the nineteenth interrogatory he answers: That he has already stated that each has to look out for his own accommodation, and they are not allowed to go abaft the shaft, and they furnish their own food and bedding.

To the twentieth interrogatory he answers: There were two deaths and one sick; the girl about 16 years old died suddenly, and the man who died was sick about a day and a half; his symptoms were of the cholera, and pronounced to be so by a man who called himself a doctor on board, and who attended to the negro, with Mr. Rhodes's approval; there were none of the other deck passengers sick except sea-sickness.

To the twenty-first interrogatory he answers: That the first one that died, the girl; the first that was known of her sickness was that she was dead; the negro man was taken sick before; deponent then told the overseer and Mr. Rhodes, that anything that we had that they wanted in the medicine chest, or any other way for the negroes that we had, they could have it; deponent then gave them mustard for poultices to put on the negro and for a bath; the overseer then told deponent that the negro was a stubborn fellow, and had given him between 30 and 40 lashes about a fortnight previous, and since then he would not work, but said he was sick; said Rhodes and overseer both left said negro, and left the other negroes to take care of him; deponent attended to him himself with the doctor that was on board; deponent then went and told said Rhodes and overseer that it was a shame—that they ought to make the other negroes attend properly to the negro; and Captain Crane told deponent to give them anything they required for the sick negro, and anything they asked for they got.

To the twenty-second interrogatory he answers: *No;* the crew are not allowed by the master or other officers of the vessel to trouble the deck passengers in any way.

To the twenty-third interrogatory he answers: No, except that said overseer asked the mate if the cook could cook some Indian meal for the negroes—this was on Tuesday, the 11th December; the mate told him yes, and the overseer then asked what time they would

get into Galveston; the mate told him they would arrive the next morning; the overseer then replied that the negroes must wait till they got on shore. On Wednesday morning at daylight deponent found that said Rhodes had taken said sick negro into the ladies' saloon; several of the passengers who were in the saloon asked deponent if he allowed that the sick negro should be there with every symptom of the cholera when there were so many women and children; deponent requested said Rhodes to take the negro out; Rhodes refused; deponent told the captain of it, and the captain went down and had the negro removed to a comfortable place, and among all the other negroes only two blankets could be found to cover the sick negro with; and he remained in that situation two hours after the arrival at Galveston, without any assistance from said Rhodes and overseer.

To the first cross-interrogatory he answers: That his age is 35; he is in the employ of Harris & Morgan; he resides on board the steamship Globe; he has resided two years in New Orleans, formerly resided in State of New York; followed the sea for the last twenty years.

To the second cross-interrogatory he answers: He was clerk on board the steamship Galveston.

To the third cross-interrogatory he answers: The mate and second clerk were present at most of the conversation; Captain Crane was also present at some of the conversations.

To the fourth cross-interrogatory he answers: No.

To the fifth cross-interrogatory he answers: That he was on board the steamship Galveston all that night; was employed the previous part of the night in attending to his duties as clerk; was not employed in loading.

To the sixth cross-interrogatory he answers: Captain Crane told deponent on the return of the steamship from Matagorda to Galveston, that it was requisite for deponent to go up and give in his testimony regarding the death of the negroes on board of the vessel. A large number of persons in Galveston asked deponent about the voyage, and he answered the same as he has testified. Mr. Harris spoke to deponent to-day, for the first time, about it, saying deponent must come to Mr. Cohen's office and testify.

HUBERT E. BUCHNER.

UNITED STATES OF AMERICA,
Fifth Circuit and District of Louisiana,
City of New Orleans, ss.

I, M. M. Cohen, a commissioner duly appointed on the 17th of April, 1842, by the Circut Court of the United States for the Fifth Circuit and District of Louisiana, under and by virtue of the acts of Congress entitled "An Act for the more convenient taking of affidavits and bail in civil cases depending in the courts of the United

States," passed February 20th, 1812, and the act of Congress entitled "An Act in addition to an act entitled 'An Act for the more convenient taking of affidavits and bail in civil cases depending in the courts of the United States,'" passed March 1st, 1817, and the act entitled "An Act to establish the Judicial Courts of the United States," passed September 24th, 1789, do hereby certify, that the reason for taking the foregoing deposition is, that the witness lives on board the steamship Globe, more than one hundred miles from Galveston, State of Texas, the place of trial of the cause for and in which said deposition is taken and is necessary; and by virtue of the annexed commission I further certify, that no notice was made out and served on the plaintiff or adverse party, agent or attorney, to be present at the taking of the deposition, and to put interrogatories, if he or they may think fit, and that no notice of the time and place of taking the said deposition was made out and served on said plaintiff or adverse party, because neither the said adverse party, nor any attorney or agent was, at the time of taking said deposition, within (100) one hundred miles of the said city of New Orleans, the place of taking said deposition, to the knowledge of the undersigned, and because of the interrogs. and cross-interrogs.

I further certify, that on this twentieth day of February, A. D. 1850, I was attended by the witness, who is of sound mind and lawful age, and the witness was by me carefully examined and cautioned, and sworn to testify the whole truth, and the deposition was by me reduced to writing, in the presence of the witness, and after carefully reading the same to witness, he subscribed the same in my presence. I have retained the said deposition in my possession, for the purpose of sealing up, directing the same with my own hand, and forwarding to the court for which the same is taken.

I further certify, that I am not of counsel nor attorney to either of the parties to the suit in said deposition and caption named, or in any way interested in the event of said civil suit named in the caption.

In testimony whereof, I have hereunto set my hand and seal.

M. M. COHEN,

U. S. Commissioner Circuit and District Court U. S. for the District of Louisiana.

M. COHEN,
Commissioner.

The following deposition of C. B. Payne was read in evidence on the trial of this cause in behalf of respondents, to wit:—

UNITED STATES DISTRICT COURT,
District of Texas:

To any commissioner of the United States authorized to take affidavits and bail in civil causes to be used in the courts of the United States and residents of New Orleans and State of Louisiana:—

Know ye, that reposing special trust and confidence in your integrity and ability, we hereby authorize and require you to call and cause to come before you C. B. Payne, and him duly examine under oath touching and concerning certain matters and things in a cause now depending in the said court in admiralty, wherein Henry W. Rhodes is libellant, and the steamship Galveston, &c., John R. Crane, master, and all others intervening, are defendants. And the said examination so taken and reduced to writing you certify under your hand and seal and send enclosed to this court without delay, to be read in evidence on the trial of this cause; and send also this writ.

Witness the Honorable John C. Watrous, judge of said court, and seal of court at the City of Galveston, this 2d day of February, A. D. 1850, and seventy-fourth year of the Independence of the United States.

[SEAL.] JAMES LOVE,
Clerk.

DISTRICT COURT OF THE UNITED STATES,
District of Texas:

In Admiralty.

HENRY W. RHODES
vs.
STEAMSHIP GALVESTON, her tackle, apparel, and furniture, JOHN R. CRANE, Master, &c.

Interrogatories to be propounded to and answered by C. B. Payne, a witness residing at the city of New Orleans in the State of Louisiana, to be produced, examined, cautioned and sworn to testify in a certain cause now depending in admiralty in said court, wherein Henry W. Rhodes is libellant against the steamship Galveston, her tackle, apparel, and furniture, whereof John R. Crane now is or late was master, and against said master and against all other persons having or claiming any interest therein. The testimony of said witness is taken at the instance of said Crane, late master as aforesaid, and Charles Morgan, John T. Wright, Israel C. Harris and Henry R. Morgan, owners of said steamship. And the answer of said witness to the interrogatories are to be read and used in evidence on the trial of said cause on behalf of all of said respondents and claimants.

Interrogatory first: Do you know the parties to said suit, or either of them? And how long have you known them?

Interrogatory second: State whether or not said Henry W. Rhodes, to your knowledge, at any time during the month of December, 1849, contracted with the master or any of the owners or agents of said steamship for the carriage of negroes on said steamship from the port of New Orleans to the port of Galveston in the

State of Texas? If yea, state all that you know in relation to said contract, and between what persons the same was made, the time when made, the number of negroes to be carried, and what portion of said steamship they were to occupy on the passage, the price to be paid for their passage, what was to be furnished said negroes by the owners or master of said steamship during the passage, what day was said steamship advertised to leave the port of New Orleans, what day by the contract were said negroes to be received on board of said steamship, and all else that you know in relation to said contract, and the subsequent action of said Rhodes under the same down to the time said steamship left on her voyage.

Interrogatory third: What day of the month and year were said negroes received on board said steamship, and what day did said steamship leave the port of New Orleans with said negroes on board.

Interrogatory fourth: State whether you saw said negroes, and if yea, what was their appearance and condition.

Interrogatory fifth: Did you hear anything said between said Rhodes and any of the owners or agents of said steamship in relation to the shipment of the baggage of said negroes? If yea, between whom was the conversation, and what was said?

Interrogatory sixth: State whether or not cholera was prevailing in New Orleans when said negroes were there?

Interrogatory seventh: In whose employ were you during the month of December, 1849, and in what capacity?

Interrogatory eighth: State whether or not said Rhodes examined that part of the steamship the negroes were to occupy during the voyage, before the negroes went on board?

Interrogatory ninth: State whether or not said negroes were shipped in the usual and customary manner, and whether or not the place they were to occupy was the usual and customary place for negroes to occupy on board of steamships plying between the ports of New Orleans and Galveston.

Interrogatory tenth: Do you know or can you state any other matter or thing in relation to the matter in controversy in said suit, that will be of any benefit or advantage to any of the parties therein? If yea, state the same fully as if more particularly interrogated in relation to the same.

F. H. MERRIMAN, and
POTTER & POTTER,
Proctors for Respondents.

1. First cross-interrogatory: What is your name? What is your age? What is your profession or calling? In whose employ are you now? How long have you lived in New Orleans?

2. Second cross-interrogatory: If, in answer to the second direct interrogatory, you say that you know anything of the contract referred to therein, when was the same made—who were the persons engaged in making said contract? Was it by Harris and Morgan,

one side, or either of them, and by Rhodes on the other? Who were present at said time? Name all the persons.

3. Third cross-interrogatory: Have you ever been engaged in planting, or dealing in negroes, or the management of negroes? If yea, how long have you been so?

4. Fourth cross-interrogatory: If, in answer to 8th direct interrogatory, you answer that said libellant, Rhodes, did examine any part of said steamship previous to said negroes going on board thereof, when was such examination? On what day? How long before said steamship sailed for Galveston on the voyage referred to? State positively.

5. Fifth cross-interrogatory: How long have you lived or resided in New Orleans? Where did you live or reside before you commenced residing in New Orleans?

J. A. SWETT,
Proctor for Libellant.

I, James Love, Clerk of the United States District Court in and for the District of Texas, hereby certify the foregoing to be a true and correct copy of the original interrogatories and cross-interrogatories now on file in this office, in the case of Henry W. Rhodes, libellant, against steamship Galveston, &c.

JAMES LOVE, *Clerk.*

UNITED STATES OF AMERICA,
District of Louisiana, City of New Orleans, ss.

Be it remembered, that on this 5th day of February, in the year of our Lord one thousand eight hundred and fifty, before me, M. M. Cohen, a Commissioner duly appointed on the 19th April, 1842, by the Circuit Court of the United States in and for the Eastern District of Louisiana, under and by virtue of the acts of Congress, entitled "An Act for the more convenient taking of affidavits and bail in civil cases depending in the Courts of the United States," passed February 20, 1812, and the act of Congress entitled "An Act in addition to an Act entitled an Act for the more convenient taking of affidavits and bail in civil causes depending in the Courts of the United States," passed March 1st, 1817, and the act entitled "An Act to establish the Judicial Courts of the United States," passed September 24th, 1789, personally appeared Cornelius B. Payne, a person of sound mind and lawful age, a witness for the respondents, in a civil suit now depending in the District Court of the United States in and for the District of Texas, wherein Henry W. Rhodes is libellant, and the Steamship Galveston defendant. And the said Cornelius B. Payne being by me first carefully examined and cautioned, and sworn to testify the whole truth, and nothing but the truth, did depose and say: That he resides in the City of New Orleans, and State of Louisiana, and has been a resident of said city

since 1847; that he is book-keeper for Harris & Morgan, of New Orleans.

In answer to interrogatory first of annexed commission, he says: I know the parties to said suit; I have known the respondents nearly two years. I have known the libellant since December last.

To the second interrogatory he answers: That said Henry W. Rhodes did, to deponent's knowledge, during the month of December, 1849, and between 4th and 9th of said month, contract with Mr. Harris, of the firm of Harris & Morgan, agents and part owners of said steamship, for the carriage of negroes on deck of said steamship, from the port of New Orleans to the port of Galveston, in the State of Texas. The contract was made between said Rhodes and said Harris at the time above stated. The number of negroes to be carried was sixty-six (66). They were to occupy the deck of said steamship, as already stated. The contract above set forth between said Rhodes and said Harris was made in my presence, and was to me shown by said Harris immediately after it was made, and while said Rhodes was still present. The amount was specified in writing on a small piece of paper, and the price to be paid for the passage of said negroes was one hundred and forty dollars ($140) to the best of my knowledge. This knowledge I derived from said paper and from the books of the said steamship, and from the statement made to me by Mr. Buchner, the clerk of said boat. I do not recollect hearing what was to be furnished said negroes by the owners or master of said steamship during the passage. Said steamship was advertised to leave the port of New Orleans on the 9th day of December, 1849, at seven o'clock A. M., and did so leave it at said day and hour as advertised. By the contract said negroes were to be received on board said steamship on the morning of her sailing. I was on the stage plank of said steamship just before she left the port of New Orleans for Galveston on said 9th day of December, 1849. When I met said Rhodes going on board of said steamship, I asked him if all his people and baggage were on board; he answered in the affirmative. I asked him if he was satisfied; he said he was; I then requested that he would do all he could to get his friends in Alabama to come that way; he said he would. Just before he made the contract, that is, on the preceding day, said Rhodes stated to said Harris and myself that if we would make the rates low, he would use his influence to get his friends in Alabama to come themselves, and to bring their negroes that way.

To the third interrogatory, he answers: That he knows from what the mate of said steamship told witness, that said negroes were received on said steamship on Saturday night, the 8th day of December, 1849, and he, the witness, knows from his personal knowledge, that all of said negroes were on board of said steamship on Sunday, the 9th day of December, 1849, for he saw them there at that time. Said steamship left the port of New Orleans, with said negroes on board, on said Sunday, the 9th of December aforesaid.

3647.

To the fourth interrogatory he answers: I saw all of said negroes; their appearance and condition were wretched in the extreme. They were badly clad, and looked as though they were worn out with travelling.

To the fifth interrogatory he answers: I do not recollect hearing anything about the shipment of the baggage of said negroes.

To the sixth interrogatory he answers: I know of persons dying, said to be of cholera, in New Orleans, during the month of December, 1849.

To the seventh interrogatory he answers: I was in the employ of the house of Harris & Morgan, during the month of December, 1849, and in the capacity of book-keeper.

To the eighth interrogatory he answers: That he knows nothing about the matter inquired of in this eighth interrogatory.

To the ninth interrogatory he answers: Said negroes were shipped in the usual and customary manner, and the place they were to occupy was the usual place for negroes to occupy on board of steamships plying between the ports of New Orleans and Galveston.

To the tenth interrogatory he answers: I know that said contract was made in the presence of said Harris and said Rhodes, and myself, and that no other person was present at that time.

To the first cross-interrogatory he answers: My name is Cornelius B. Payne; my age is thirty-three years; my profession is that of book-keeper; I am now in the employ of Harris & Morgan; I have lived in New Orleans between two and three years.

To the second cross-interrogatory he answers: The said contract was made in the office of Harris & Morgan. The persons engaged in making said contract were said Rhodes and said Harris. It was by Harris on one side, and by said Rhodes on the other. All the persons who were present at said time were said Harris and said Rhodes and myself.

To the third cross-interrogatory he answers: That he has never been engaged in planting, or dealing in negroes, or the management of negroes.

To the fourth cross-interrogatory he answers: He knows nothing about said Rhodes, the libellant, examining any part of said steamship previous to said negroes going on board thereof.

To the fifth cross-interrogatory he answers: I have lived in New Orleans between two and three years. I lived in Lawrenceburg, Indiana, before I commenced residing in New Orleans. The Galveston was advertised by me, in four of the daily papers of New Orleans, to leave on Sunday, the 9th of December, 1849, which advertisement appeared, for the first time, on Tuesday morning, the 4th of December, and was continued every day until the following Sunday, the 9th inst.

A copy of the Daily True Delta, of Tuesday morning, the 4th of December, 1849, and a copy of the Daily Delta, of Sunday morning, the 9th of December, 1849, are now by me handed to the commis-

sioners, to be annexed to this deposition, he having first marked them as follows, in order to identify them, that is to say, the Daily True Delta is marked A. M. M. C., U. S. Cr.; and the Daily Delta is marked B. M. M. C., U. S. Cr.

CORNELIUS B. PAYNE.

From "True Delta."

"For Galveston and Matagorda Bay. Regular, New Orleans and Texas U. S. mail line of low pressure steamships for Galveston, Indianola, and port Lavaca, to sail on Sunday, the 9th inst., at 9 o'clock A. M. The superior coppered and copper fastened steamship Galveston, John R. Crane, master, will leave as above; for freight at the reduced rates, or passage to either of the above places, (subject to transshipment in Matagorda Bay, at which point the new light draught steamer Jerry Smith will go alongside and take passengers to Indianola, and freight to that point and Lavaca,) apply on board, foot of Julia street, or to Harris and Morgan, 79 Tchoupitoulas street.

N. B.—Freight and passengers for Matagorda and Saluria, will be landed at Indianola. Dec. 4."

From "The Daily Delta."

"For Galveston and Matagorda Bay, Regular New Orleans and Texas, U. S. mail line of low pressure steamships for Galveston, Indianola, and Port Lavaca, to sail on Sunday, the 9th inst., at 9 o'clock, A. M. The superior coppered and copper fastened steamship Galveston, John R. Crane, master, will leave as above; for freight at the reduced rates, or passage to either of the above places, (subject to transshipment in Matagorda Bay, at which point the new light draught steamer Jerry Smith will go alongside and take passengers to Indianola, and freight to that point and Lavaca,) apply on board where bills of laden will be signed through, foot of Julia st., or to Harris & Morgan, 79 Tchoupitoulas st.

N. B.—Freight and passengers for Matagorda and Saluria will be landed at Indianola. Dec. 4."

UNITED STATES OF AMERICA,
Fifth Circuit and E. District of Louisiana,
City of New Orleans, ss:

I, M. M. Cohen, a commissioner duly appointed on the 17th April, 1842, by the Circuit Court of the United States for the Fifth Circuit and District of Louisiana, under and by virtue of the acts of Congress, entitled "An Act for the more convenient taking of affidavits and bail in civil cases depending in the courts of the United States," passed February 20th, 1812; and the act of Congress entitled "An Act in addition to an act, entitled an act for the more convenient

3/48.

taking of affidavits and bail in civil cases, depending in the courts of the United States," passed March 1st, 1817; and the act entitled "An Act to establish the judicial courts of the United States," passed September 24th, 1789, do hereby certify that the reason for taking the foregoing deposition is, that the witness lives in New Orleans, more than one hundred miles from the city of Galveston, State of Texas, the place of trial of the cause for and in which said deposition is taken and is necessary; and by virtue of the annexed commission I further certify, that no notice was made out and served on the libellant, or adverse party, agent, or attorney, to be present at the taking of the deposition, and to put interrogatories if he or they may think fit; and that no notice of the time and place of taking the said deposition was made out and served on said libellant or adverse party, because neither the adverse party nor any attorney or agent of said adverse party was, at the time of taking said deposition within (100) one hundred miles of the said city of New Orleans, the place of taking said deposition, to the knowledge of the undersigned, and because of the cross-interrogatories. I further certify, that on this 5th day of February, A. D. 1850, I was attended by the witness, who is of sound mind and lawful age, and the witness was by me carefully examined and cautioned, and sworn to testify the whole truth; and the deposition was by me reduced to writing in the presence of the witness, and after carefully reading the same to the witness, he subscribed the same in my presence. I have retained the said deposition in my possession, for the purpose of sealing up, directing the same with my own hand, and forwarding to the court for which the same is taken.

I further certify that I am not of counsel nor attorney to either of the parties to the suit in said deposition and caption named, or in any way interested in the event of said civil suit named in the caption.

In testimony whereof, I have hereunto set my hand and seal.

M. M. COHEN,
U. S. Commissioner Circuit and District Court U. S. for the E. District of Louisiana.

M. M. COHEN,
Commissioner.

The following deposition of Foster Axson was read in evidence in behalf of respondents, at the hearing of this cause, to wit:—

UNITED STATES OF AMERICA,
District of Louisiana, } *City of New Orleans, ss:*

Be it remembered, that on this 5th day of February, in the year of our Lord one thousand eight hundred and fifty, before me, M. M. Cohen, a commissioner duly appointed on the 19th April, 1842, by the Circuit Court of the United States in and for the Eastern Dis-

trict of Louisiana, under and by virtue of the acts of Congress, entitled "An Act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States," passed February 20, 1812, and the act of Congress entitled "An Act in addition to an act entitled an act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States," passed March 1st, 1817, and the act entitled "An Act to establish the Judicial Courts of the United States," passed September 24th, 1789, personally appeared A. Foster Axson, a person of sound mind and lawful age, a witness for the respondents in civil suit now depending in the District Court of the United States in and for the District of Texas, wherein Henry W. Rhodes is libellant, and the steamship Galveston, &c., John R. Crane, master, and all others intervening are defendants. And the said A. Foster Axson being by me first carefully examined, and cautioned and sworn to testify the whole truth and nothing but the truth, did depose and say: That he resides in the city of New Orleans and State of Louisiana, and has been a resident of said city since 1843; that he is a duly authorized and licensed practicing physician, and has been so since said 1843; that from the 1st to the 9th of December last, 1849, there was cholera in said city; that since its first outbreak here in December, 1848, there has not been a month but what cholera has been seen in the city; that deponent is a member of the Physico-Medical Society of New Orleans; that it is one of the objects of said society to take cognizance of the cases of sickness that occur, and to report them to the society at its semi-monthly meetings; that at said meetings cases of cholera have always been reported.

A. FOSTER AXSON.

UNITED STATES OF AMERICA,
Fifth Circuit and E. District of Louisiana,
City of New Orleans, ss:

I, M. M. Cohen, a commissioner duly appointed on the 17th of April, 1842, by the Circuit Court of the United States for the Fifth Circuit and District of Louisiana, under and by virtue of the acts of Congress, entitled "An Act for the more convenient taking of affidavits and bail in civil causes depending in the Courts of the United States," passed Feb. 20th, 1812, and the act of Congress, entitled "An Act in addition to an act entitled an act for the more convenient taking affidavits and bail in civil causes depending in the courts of the United States," passed March 1st, 1817; and the act entitled "An Act to establish the Judicial Courts of the United States," passed Sept. 24th, 1789, do hereby certify that the reason for taking the foregoing deposition is that the witness lives in New Orleans, more than one hundred miles from the city of Galveston, State of Texas, the place of trial of the cause for and in which said deposition is taken and is necessary. I further certify that no notice was

3649.

made out and served on the libellant or adverse party, agent, or attorney, to be present at the taking of the deposition, and to put interrogatories if he or they may think fit; and that no notice of the time and place of taking the said deposition was made out and served on said libellant or adverse party, because neither the said adverse party nor any attorney or agent of said adverse party was at the time of taking said deposition within (100) one hundred miles of the said city of New Orleans, the place of taking said deposition, to the knowledge of the undersigned. I further certify that on this 5th day of February, A. D. 1850, I was attended by the witness, who is of sound mind and lawful age, and the witness was by me carefully examined and cautioned, and sworn to testify the whole truth, and the deposition was by me reduced to writing in the presence of the witness, and after carefully reading the same to witness he subscribed the same in my presence. I have retained the said deposition in my possession for the purpose of sealing up, directing the same with my own hand, and forwarding to the court, for which the same is taken. I further certify that I am not of counsel nor attorney to either of the parties to the suit in said deposition and caption named, or in any way interested in the event of said civil suit named in the caption.

In testimony whereof I have hereunto set my hand and seal.

M. M. COHEN,

U. S. Commissioner Circuit and District Court United States for the E. District of Louisiana.

M. M. COHEN,
Commissioner.

The following deposition of E. D. Fenner, M. D., was read in evidence in behalf of respondents at the hearing of this cause, to wit:—

UNITED STATES OF AMERICA,
E. District of Louisiana, City of New Orleans, ss:

Be it remembered that on this 28th day of March, in the year of our Lord one thousand eight hundred and fifty, before me, M. M. Cohen, a commissioner duly appointed on the 19th April, 1842, by the Circuit Court of the United States in and for the Eastern District of Louisiana under and by virtue of the acts of Congress, entitled "An Act for the more convenient taking of affidavits and bail in civil cases depending in the Courts of the United States," passed Feb. 20th, 1812; and the act of Congress, entitled "An Act in addition to an act entitled an act for the more convenient taking of affidavits and bail in civil causes depending in the Courts of the United States," passed March 1st, 1817; and the act entitled "An Act to establish the Judicial Courts of the United States," passed Sept. 24th, 1789, personally appeared E. D. Fenner, a person of sound mind and lawful age, a witness for the defendants in civil suit depending in the District Court of the United States in and for the

District of Texas, wherein Henry W. Rhodes is plaintiff, and the Steamship Galveston, &c. is defendant. And the said E. D. Fenner being by me first carefully examined and cautioned and sworn to testify the whole truth, and nothing but the truth, did depose and say, that he is a duly licensed and authorized practicing physician of the City of New Orleans, and was so in the month of December, in the year 1849; that during said month cholera did exist and prevailed in New Orleans aforesaid, and that negroes in transitu, being unacclimated and somewhat exposed to the weather, would be more than likely to take it; that cholera first appeared in said New Orleans in the month of December, A. D. 1848, and has not altogether left said city since said December, 1848, but that in the summer of the year 1849 it for a few weeks scarcely made itself known by the reports of any deaths of that disease.

E. D. FENNER, M. D.

UNITED STATES OF AMERICA,
Fifth Circuit and E. District of Louisiana,
City of N. Orleans, ss:

I, M. M. Cohen, a commissioner duly appointed on the 17th April, 1842, by the Circuit Court of the United States for the Fifth Circuit and District of Louisiana, under and by virtue of the acts of Congress, entitled "An Act for the more convenient taking of affidavits and bail in civil cases depending in the courts of the United States," passed February 20, 1812, and the Act of Congress entitled "an Act in addition to an Act for the more convenient taking of affidavits and bail in civil cases depending in the courts of the United States," passed March 1, 1817, and the Act entitled "an Act to establish the Judicial Courts of the United States," passed September 24, 1789, do hereby certify, that the reason for taking the foregoing deposition is, that the witness lives in New Orleans, more than one hundred miles from Galveston, State of Texas, the place of trial of the cause for and in which said deposition is taken and is necessary.

I further certify, that no notice was made out and served on the plaintiff or adverse party, agent or attorney, to be present at the taking of the deposition, and to put interrogatories if he or they may think fit, and that no notice of the time and place of taking the said deposition was made out and served on said plaintiff or adverse party, because neither the said adverse party nor any attorney or agent of said adverse party was at the time of taking said deposition within (100) one hundred miles of the said city of New Orleans, the place of taking said deposition, to the knowledge of the undersigned.

I further certify, that on this 28th day of March, A. D. 1850, I was attended by the witness, who is of sound mind and lawful age, and the witness was by me carefully examined and cautioned, and sworn to testify the whole truth, and the deposition was by me reduced to writing in the presence of the witness, and after carefully

reading the same to the witness, he subscribed the same in my presence. I have retained the said deposition in my possession for the purpose of sealing up, directing the same with my own hand, and forwarding to the court, for which the same was taken.

I further certify, that I am not of counsel nor attorney to either of the parties to the suit in said deposition and caption named, nor in any way interested in the result of civil suit named in the caption.

In testimony whereof, I have hereunto set my hand and seal.

M. M. COHEN,

U. S. Commissioner Circuit and District Court U. States for the District of Louisiana.

M. M. COHEN,
Commissioner.

The following deposition of Peter M. Bogart was read in evidence at the hearing of this cause, on the part of the respondents, to wit:

UNITED STATES OF AMERICA,
United States District Court, District of Texas:

The President of the United States

To any Commissioners of the United States Court in the State of Louisiana, greeting: Know ye, that in confidence of your prudence and fidelity, you have been appointed and by these presents you are invested with full power and authority to examine Peter Bogart and B. F. Dabney on their corporal oaths as witnesses in a cause depending in the District Court of the United States for the District of Texas, having Circuit Court powers, wherein Henry W. Rhodes is plaintiff, and the steamship Galveston, John R. Crane, master, is defendant, on the part of the defendant, upon the interrogatories and cross-interrogatories annexed to this commission. And, therefore, you are hereby commanded, that you, at certain days and places to be appointed by you for that purpose, do cause the said Bogart and Dabney to come before you, and then and there examine them upon oath upon the said interrogatories and cross-interrogatories, and that you take such examinations and reduce the same into writing, and return the same, annexed to this writ, closed up under your seal, into the said court before the judge thereof, with all convenient speed.

Witness, John C. Watrous, Judge of our United States District Court for the District of Texas, on the 28th day of February, A. D. 1850, with seal of court, and in the 74th year of the Independence of the United States.

[SEAL.] JAMES LOVE,
Clerk.

THE UNITED STATES OF AMERICA,
District of the State of Texas:

In Admiralty.

HENRY W. RHODES
vs.
STEAMSHIP GALVESTON.

Interrogatories to be propounded to and answered by Peter Bogart and B. F. Dabney, of New Orleans, in the State of Louisiana, before a proper commissioner in this behalf to be named, in the above entitled cause, now depending in the United States District Court for the District of the State of Texas, in Admiralty, wherein said Henry W. Rhodes has exhibited his libel against said Steamship Galveston, her tackle, apparel, and furniture, and John R. Crane, late master of said steamship, and also against all persons lawfully intervening or claiming any interest in said steamship. Said testimony to be taken on the part of said John R. Crane, late master of said steamship, and of Charles Morgan, John T. Wright, Israel C. Harris, and Henry R. Morgan, owners of said steamship, and to be used as evidence on the part of said parties on the trial of said cause. All of the following interrogatories to be answered by each and all of the above named witnesses:—

First interrogatory: Do you know Henry W. Rhodes and John R. Crane, or either of them? If yea, how long have you known each of said persons? When and where and how did you first see or become acquainted with said Henry W. Rhodes?

Second interrogatory: Do you know the said steamship Galveston? If yea, how long have you known said steamship? Who was master of said steamship during all the month of December last up to the twentieth day of said month? What is the tonnage of said steamship, and what number of barrels by measurement makes a full cargo for her? What is the greatest number of deck passengers that you have known at any and what time to have been transported on board of said steamship, and from and to where were they transported? What particular portion of said steamship was assigned to such deck passengers, and what did they occupy?

Third interrogatory: Who owned said Steamship Galveston during all the month of December last, and who now owns her?

Fourth interrogatory: Was or was not said Steamship Galveston at the port of New Orleans on the sixth, seventh, and eighth days of December last, and was she or not bound on a voyage to the port of Galveston? If yea, was any public notice given of the day or time when she was to leave said New Orleans on said voyage, and when did such notice state that she was to so leave? What was your occupation or calling at that time, and what has it been ever since? Have you ever been employed on board a steamboat or boats? If yea, how long, where, in what trade, and in what capacity?

Fifth interrogatory: Were you or not in New Orleans on the sixth, seventh, eighth and ninth days of December last? If yea, did you or did you not see said Henry W. Rhodes on any and which of said days in said New Orleans? Where was said Rhodes when you so saw him, and what was he about? Did you or did you not, on any and which of said days, hear any conversation between said Rhodes and said John R. Crane about said Rhodes having some negroes transported on board said steamship Galveston? If yea, state the conversation. Did said Rhodes, on any and which of said days have any conversation with you about the transportation of said negroes as aforesaid, or about any matter connected with the transportation of said negroes? If yea, state the conversation. Did any other and what person than said Rhodes, acting for said Rhodes, have any conversation with you and said John R. Crane, or either and which of you, in relation to the transportation of said negroes as aforesaid, or about any matter connected with the transportation of said negroes? If yea, state the conversation, and the capacity in which such person was acting for said Rhodes.

Sixth interrogatory: On what day of the month did said steamship Galveston leave said New Orleans on her said voyage to Galveston, referred to in the fourth interrogatory? On what day did the passengers go on board of said steamship for said voyage? On what day did said steamship arrive at said Galveston from said voyage? How many cabin passengers? How many white deck passengers, and how may negroes were on board said steamship during said voyage? Did or did not said steamship have on board during said voyage as many cabin and deck passengers as she could accommodate, and as much freight as she could carry? If not, state how many more cabin or deck passengers could have been accommodated, and how much more freight could said steamship have carried?

Seventh interrogatory: Did or did not said Rhodes have some negroes on board said steamship during said voyage? If yea, how many and on what day of the month, and where were they taken on board? When and where did you first see said negroes, and under what circumstances, and what white person, if any, was then with them or had charge of them? What was the appearance of said negroes as to health and clothing at the time they went on board said steamship for said voyage? Had or had not said negroes been in said New Orleans just previous to the commencement of said voyage? And if yea, how long had they been there? What was the state of health in said New Orleans at the time said steamship left there on said voyage, and was or was not the cholera prevailing there at that time?

Eighth interrogatory: Do you know anything of any bedding, clothing, and other articles which you supposed belonged to said Rhodes and to be for the use of said negroes? If yea, state when and where you first saw said articles of bedding, clothing, &c., and what orders, if any, and when, were given by Rhodes or his agent

about the same, and to whom were such orders given? Did you have any conversation with said Rhodes or his agent about said bedding, clothing, &c.? If yea, state the conversation fully, and with whom did you have it, and when and where. Did you hear any conversation between said John R. Crane and said Rhodes or his agent about said bedding, clothing, &c.? If yea, state the conversation fully, and when and where did it take place?

Ninth interrogatory: What kind of weather was it during said voyage of said steamship from said New Orleans to Galveston? What kind of weather was it the night previous to said steamship leaving said New Orleans on said voyage, and where were the negroes before referred to during said night, and what was their condition and appearance on the next morning?

Tenth interrogatory: Would you or would you not have permitted a gang of negroes belonging to yourself, or of which you had charge, to have remained without shelter on the wharf at said New Orleans, during all the night of such a night as was that next previous to the day on which said steamship left said New Orleans on said voyage? Could or could not comfortable shelter have been found on said night, or any other night, for one hundred negroes in said New Orleans?

Eleventh interrogatory: Did or did not said Rhodes or his agent, or both of them, know before said steamship left said New Orleans, on said voyage, what space or place was to be allotted to and occupied by said negroes on board of said steamship during said voyage? If yea, how did either and which of them know about this matter, and from whom? state fully. Did or did not said negroes occupy such place during said voyage; and if not, what place did they occupy, and was the same better or worse for them, and in what respect? state fully.

Twelfth interrogatory. Do you know anything about any contract for the transportation of said negroes on said steamship on said voyage? If yea, from whom did you get your information or knowledge, and how? Who was to feed said negroes, and what privileges were they to have? State fully, and particularly all that you know about the matter.

Thirteenth interrogatory: Were or were not said negroes properly fed during said voyage of said steamship from said New Orleans to Galveston? If not, whose fault was it, and in what respect were they not properly fed? State fully about the matter.

Fourteenth interrogatory: Were or were not said negroes during said voyage provided with sufficient and proper bedding and clothing for a winter voyage on board of said steamship from said New Orleans to Galveston? If you answer in the negative, then state in what respect they were not so properly provided. Whose fault was it? State fully about the matter.

Fifteenth interrogatory: In what manner were said negroes treated on board of said steamship during said voyage from said New Orleans to Galveston, by the master, other officers, and crew of said

steamship? Were said negroes treated with neglect or inhumanity, or cruelty, or brutally, or in an unusual manner, or with any, and which of these, by the master, other officers, or crew of said steamship during said voyage? State fully and particularly about the matter.

Sixteenth interrogatory: Were or were not all of the deck passengers treated and used alike on board of said steamship, during said voyage from said New Orleans to Galveston, by the master, other officers, and crew of said steamship? If not, then in what respect did such treatment differ, by whom and towards whom? State fully and particularly. Did you hear any complaint from any of the white deck passengers about their treatment? If yea, from which of them, and in relation to what.

Seventeenth interrogatory: Were there any greater or other liberties or privileges allowed or granted to the white deck passengers, than were allowed or granted to said negroes during said voyage on board of said steamship? If yea, how and in what respect, by whom and to whom?

Eighteenth interrogatory: What particular part or portion of said steamship Galveston is in all cases assigned to deck passengers in said trade between said New Orleans and Galveston? Describe the same particularly. Is it or is it not usual and customary to carry all horses, mules, and cattle that may be offered for freight on the same deck with the deck passengers? What is the width of the passages or gangways running from the foredeck to the after part of said steamship, and how many such passages are there, and what is their length?

Nineteenth interrogatory: What are the privileges and accommodations, in all cases, allowed and furnished to deck passengers on board said steamship Galveston, and other steamships in said trade between said New Orleans and Galveston, and who furnishes the food and bedding for such passengers? State particularly.

Twentieth interrogatory: Was there any sickness or any deaths amongst the negroes which you supposed to belong to said Rhodes, on board of said steamship during said voyage from said New Orleans to Galveston? If yea, how many were sick, and how many died, and what was the nature of such sickness? Were any of the other deck passengers sick during said voyage? If yea, what was the nature of such sickness?

Twenty-first interrogatory: State particularly every fact and thing that occurred on board of said steamship during said voyage from said New Orleans to Galveston, in relation to the sickness or death of any one or more of the negroes that you supposed to belong to said Rhodes. What did you hear said Rhodes, or his agent, and which of them, say about any such sick negroes? Did you do anything, or cause anything, and what, to be done for any such sick negroes? Did you or the master of said steamship furnish any articles for the benefit of such sick negroes?

Twenty-second interrogatory: Did any of the negroes which you supposed to belong to the said Rhodes suffer anything during said voyage from said New Orleans to Galveston, through the fault or neglect of the master, other officers, or crew of said steamship? If yea, in what respect, and from whom?

Twenty-third interrogatory: Do you know, or can you state any other matter or thing, in relation to the matter in controversy in said suit, that will be of any benefit or advantage to any of the parties therein? If yea, state the same fully as if more particularly interrogated in relation to the same.

F. H. MERRIMAN,
POTTER & POTTER,
Proctors for Respondents.

I, James Love, Clerk of the District Court of the United States in and for the District of Texas, do hereby certify, that the foregoing is a true and correct copy of the interrogatories as on file in this office, to be answered by witnesses, Peter Bogart and B. F. Dabney, in the case of Henry W. Rhodes against steamship Galveston, &c.

Witness my hand this 28th day of February, A. D. 1850.

JAMES LOVE,
Clerk.

In Admiralty.

HENRY W. RHODES
vs.
STEAMSHIP GALVESTON.

The following cross-interrogatories are required to be answered by each of the witnesses, Peter Bogart and B. F. Dabney.

1. First cross-interrogatory: What is your age? What is your profession or calling? In whose employ are you? Where do you reside? How long have you resided in New Orleans? Where did you reside, and what business did you follow before you resided in New Orleans?

2. Second cross-interrogatory: In what business and in whose employ were you on the 7th, 8th, 9th, 10th of December last past? Was you or not employed as an officer, or hand, or one of the crew of said steamship Galveston, or in some way employed; and what way on board said steamship, on and during said voyage from New Orleans to Galveston, about the 10th of December, 1849? If yea, what berth or position, and in what capacity was you so on board said steamship?

3. Third cross-interrogatory: If you, in answer to any of the direct interrogatories, state any of the conversation with said Henry W. Rhodes and yourselves, or between said Rhodes and any other person, state who were present at said conversations. Name all the persons so present. When were said conversations, and each of them?

4. Fourth cross-interrogatory: Do you own, or have you owned negro slaves? If yea, how many, and when?

5. Fifth cross-interrogatory: Did you stay on board said steamship Galveston during all the night next before the departure of said steamship from New Orleans to Galveston, about the 10th of December, 1849? Did you pass said night on board said steamship? If yea, was you employed in loading said steamship for said voyage, or in any other way employed on said steamship?

6. Sixth cross-interrogatory: Who first spoke to you about your testimony in this cause? and who have you talked with about said testimony, or testifying in said cause? Name all the persons who have so spoken to you, or with whom you have conversed.

J. SWETT,
Proctor for Libellant.

If the above named witnesses were either officers, composed a part of the crew, or hands of said steamship during the voyage referred to, we object to any testimony of said witnesses, or either of them, touching the conduct of said Crane or any of the officers or crew of said steamship during said voyage.

JOHNSON & SWETT,
Pro Libellant.

I, James Love, Clerk of the District Court of the United States in and for the District of Texas, do hereby certify the foregoing to be a true and correct copy of the cross-interrogatories to be propounded to and answered by Peter Bogart and B. F. Dabney, as now on file in this office, in the case of Henry W. Rhodes against steamship Galveston.

Witness my hand this 28th day of February, A. D. 1850.

JAMES LOVE,
Clerk.

UNITED STATES OF AMERICA,
District of Louisiana, City of New Orleans, ss:

Be it remembered, that on this 11th day of March, in the year of our Lord one thousand eight hundred and fifty, before me, M. M. Cohen, a commissioner duly appointed on the 19th April, 1842, by the Circuit Court of the United States in and for the Eastern District of Louisiana, under and by virtue of the acts of Congress, entitled "An Act for the more convenient taking of affidavits and bail in civil causes depending in the Courts of the United States," passed Feb. 20th, 1812; and the act of Congress, entitled "An Act in addition to an Act entitled 'an Act for the more convenient taking of affidavits and bail in civil causes depending in the Courts of the Uni-States,'" passed March 1st, 1817; and the act entitled "An Act to establish the Judicial Courts of the U. S.," passed Sep. 24th, 1789,

personally appeared Peter M. Bogart, a person of sound mind and lawful age, a witness for the defendant in civil suit now depending in the District Court of the United States in and for the District of Texas, wherein Henry W. Rhodes is plaintiff, and the Steamship Galveston, John R. Crane, master, is the defendant, and the said Peter M. Bogart being by me first carefully examined, and cautioned, and sworn to testify the whole truth and nothing but the truth, did depose and say:—

1. To the first interrogatory he answers: I know John R. Crane, have known him between four and five years; I first saw Henry W. Rhodes about the sixth of December, 1849; I knew him as a passenger on the steamship Galveston from New Orleans to Texas, on the passage when the said steamship left New Orleans the 9th day of December, 1849, and this is all the acquaintance I have with said Rhodes.

2. To the second interrogatory he answers: I have known the steamship Galveston two years past; John R. Crane was master of said steamship during the month of December last, up to and after the 20th day of said month; I do not know the exact tonnage of said steamship, but believe she is five hundred and sixty tons burthen; four thousand barrels is a full cargo for her; two hundred United States soldiers is the greatest number of deck passengers I have ever known carried on said steamship; they were carried from Vera Cruz to New Orleans; the soldiers occupied any part of the deck forward of the shaft, which is the place assigned to all deck passengers.

3. To the third interrogatory he answers: During all the month of December last, and at the present time, said steamship was, and is owned by Charles Morgan, of New York, and Henry R. Morgan and Israel C. Harris, of New Orleans.

4. To the fourth interrogatory he answers: The steamship Galveston was at the port of New Orleans on the 6th, 7th, and 8th days of December last, and was bound from thence on a voyage to the port of Galveston; notice was given in the newspapers of New Orleans that the steamship Galveston would leave New Orleans for the port of Galveston, on the 9th day of December last; I was mate of said steamship at that time, and continued in that office until the 22d of January last, when I left the vessel and have since that time to the present been mate on the steamship Portland; I have been for two years past employed as mate and second mate on the steamships Globe, Galveston, and Portland, running during that time between New Orleans, Vera Cruz, Brazos St. Jago, Port Lavaca, and Galveston, and one trip to New York.

5. To the fifth interrogatory he answers: I was in New Orleans on the 6th, 7th, 8th and 9th days of December last; I saw Henry W. Rhodes on board of said steamship, and on the levee in New Orleans as I believe, on each of the days above named; Rhodes was talking with the clerk about freight and passage on the boat at some of the

times when I saw him; on the 7th day of December last, I heard Rhodes say to Captain Crane that he had some negroes going to Texas on said steamship, and wanted to know of Captain Crane what were the accommodations of a deck passage, and Captain Crane told him deck passengers occupied the deck forward of the shaft; I heard this in passing them; Rhodes did not have any conversation with me in New Orleans, in relation to the transportation of the negroes, nor did any other person acting for Rhodes have any such conversation with me that I heard.

6. To the sixth interrogatory he answers: On the 9th day of December last, and the passengers came on board the morning of said day; I think said steamship arrived in Galveston on Wednesday, the 12th day of December last; to the best of my recollection there were 65 cabin passengers, beside children, 22 white deck passengers, and 78 negroes were on board said steamship during said voyage; 25 more cabin passengers, and 30 more deck passengers than were on board could have been comfortably accommodated during said voyage; five hundred barrels of freight more than was carried on said voyage could have been carried on said steamship with ease during said voyage.

7. To the seventh interrogatory he answers: Rhodes had in his possession 66 negroes on board said steamship when the voyage commenced; they were taken on board in New Orleans on the 9th of December last, in the morning, just before the steamship left on the voyage; I first saw the negroes about mid-day on the 8th of December last, on the levee near said steamship; they were then in charge of a white man whom I had before seen with Rhodes, and who appeared to be acting as his overseer; I do not know his name, but he came to Texas with Rhodes on said voyage; the negroes were the sickliest looking and poorest clothed lot of negroes I ever saw carried on a boat in that trade; they appeared worn down with a long journey, and many of them not able to be about; none of them had sufficient or comfortable clothes; they were very dirty and ragged, and apparently half starved; their clothes wet from the previous night's rain; I do not know how long the negroes had been in New Orleans before I first saw them; I do not know of my own knowledge the state of health in New Orleans at the time said steamship left, but it was generally rumored and asserted that cholera was prevailing there at that time.

8. To the eighth interrogatory he answers: On the 7th day of December last, a lot of negro bedding and provisions, and negro luggage was brought to the levee where said steamship was taking in freight, and was in charge of the young man who I supposed to be in the employ of Rhodes, as overseer. He said it was the luggage of a lot of slaves going to Texas on the boat, which he wanted taken on board. I then told him to select out such articles as would be wanting by the negroes on the passage, as the balance would be stowed under hatches, and could not be got at on the voyage.

Rhodes was present at the time. The young man then told me all the baggage might be stowed under hatches, as the negroes had with them everything they would want on the passage. The luggage was then stowed away under hatches. I did not hear any conversation between Rhodes and Crane, or the agent of Rhodes and Crane, in relation to the bedding and luggage above named. No other negro bedding or luggage belonging to Rhodes was put on board at any time, except such as the negroes had with them when they went on board, and that the negroes had the use of during all of the voyage.

9. To the ninth interrogatory he answers: From the time the steamship left the mouth of the Mississippi until she arrived at Galveston, the weather was very cold, and a severe norther was blowing all of the time. The night before said steamship left New Orleans, it rained most of the night. The negroes were brought down to the steamship about noon, the 8th of December last, and Rhodes then asked Captain Crane when he wanted the negroes to come on board, and Captain Crane told Rhodes he could not take them on until next day, when the boat got ready to leave, and advised him to get a place of shelter for them until then. Rhodes said he would leave the negroes on the levee until then, and said they would do well enough there. Rhodes got some tarpaulins and stretched them on the levee for the negroes to lie under. The negroes remained on the levee all the afternoon, and I saw them there between eight and nine o'clock on the night of the 8th of December last. I saw them next morning, about six o'clock, all lying in the gangways, on board the boat, under shelter. I then ordered them ashore until the freight was all in, as they encumbered the deck so the men could not work, and the negroes had no right there at that time. A watchman by the name of Cone told me the next morning, that between nine and ten o'clock the night previous, he found his negroes on the levee, in the rain, and he told them to go on the deck of said steamship and get out of the rain. Cone asked me if he had done wrong in doing this without asking some officer of the boat. Said he looked for me before he ordered the negroes to go on board, but found I was asleep, and did not wake me. I told him he had done no harm, and it was well enough. When I saw the negroes on the morning of the ninth of December last, their clothes were wet, and they had the appearance of having been soaked with rain on the levee during the night before they came on board.

10. To the tenth interrogatory he answers: I would not have permitted a negro of mine, or a negro in my charge, to have remained on the levee on the night of the 8th of December last, if shelter could have been procured in New Orleans. Shelter could have been obtained in New Orleans that night, or any other, for a much larger number of negroes, for a reasonable sum.

11. To the eleventh interrogatory he answers: Rhodes went on board of said steamship and was told and shown the place the negroes were

to occupy during the voyage, both on the 7th and 8th days of December last. Rhodes was shown the place both by the first clerk of said steamship and myself. The negroes occupied the place shown to Rhodes, and by consent of the Captain, on account of cold weather, scant clothing, and sickness among Rhodes's negroes, these negroes were permitted to occupy that part of the deck aft of the shafts up to the ladies' cabin, which was more comfortable than forward of the shafts.

12. To the twelfth interrogatory he answers: Of my own knowledge, I know nothing about the contract, and I did not hear Rhodes speak of it. I do not know who was to feed the negroes, or what privileges they were to have by contract. Deck passengers always find their own food and bedding, and are allowed only to occupy the deck forward of the shafts, and I supposed these negroes had no greater rights.

13. To the thirteenth interrogatory he answers: The negroes were not properly fed during the passage; I did not see them eat anything during the passage, except some scraps from the cabin table, which were given to them by the cook; and this did not appear to half satisfy their appetites. The cook complained to me that these negroes stole victuals every time he left the galley, and wanted me to keep them away from the cook-house. Rhodes asked me, the day before we got into Galveston, if I thought the cook would cook anything for his negroes. I told him yes, to go down and see the cook. He did so, and the cook told him he would cook fifty or a hundred pounds of Indian meal for a dollar and a half. Rhodes then asked me what time I thought we would reach Galveston. I told him between eight and ten o'clock the next morning. Rhodes then told his negroes they could not be very hungry, and they could go without until next morning, when they would get ashore, and he would give them a good blow-out. That the negroes were not properly fed was the fault of Rhodes.

14. To the fourteenth interrogatory he answers: The negroes had not sufficient clothing or bedding to make a voyage from Orleans to Galveston in December; there was not a bed among all the negroes, and there were three negroes to one blanket. The boat was not to furnish them clothing or bedding, and if they did not have sufficient it was the fault of Rhodes.

15. To the fifteenth interrogatory: The negroes received no violence or ill treatment from the officers or crew of said steamship; they were not treated with neglect, or inhumanity, or cruelty by said officers or crew; as I have stated before, they were allowed a privilege not allowed deck passengers on account of their miserable condition; in every other respect they were treated the same as the other deck passengers.

16. To the sixteenth interrogatory he answers: They were all treated alike, except the negroes were allowed, on account of sickness and cold, to occupy the deck aft of the shafts. I heard no

complaint made by any of the white deck passengers about their treatment.

17. To the seventeenth interrogatory he answers: The negroes were allowed, on said voyage, to go where deck passengers never before or since have been allowed to go on said boat during the time I was on her; in all other respects the deck passengers were treated alike during said voyage.

18. To the eighteenth interrogatory he says: That part of the deck forward of the shafts it is usual and customary to carry all the horses, cattle and mules that are offered and can be accommodated. The cattle are carried on the same deck as the deck passengers, but they are put on the unsheltered part of the deck near the bows, called the forecastle deck, and deck passengers occupy that portion of the deck under cover forward of the shafts. There are two gangways or passages running from the forward deck aft to the cabin; they are about eight feet wide and ninety feet long, and are under cover; there is also an open space between these gangways about thirty feet square over and extending forward to the boiler.

19. To the nineteenth interrogatory he answers: The deck passengers have the privilege to occupy the deck forward of the shafts; they furnish their own food and bedding; all the boat furnishes to the deck passengers in that trade, is drinking water, and hot water to make tea or coffee, a fire and use of a stove or caboose for cooking.

20. To the twentieth interrogatory he answers: A negro man and a negro woman, which Rhodes said belonged to him, died on said voyage; the woman died the second night out; she had on only a calico frock and thin skirt, when she died. She had no blanket, and I had to get a blanket to sew her up in; the negro man died next day; these were the only deaths. Three other negroes which Rhodes said belonged to him, were taken sick on the passage; this was the only sickness except sea-sickness. It was said and believed by those on board, that cholera was what the negroes died of and what the others were sick with.

21. To the twenty-first interrogatory he answers: I have stated in the preceding answer all I know about the sickness and death of said negroes. Rhodes took one of the sick negroes into the ladies' cabin, and the passengers made complaint of it; and as soon as Captain Crane knew it, he ordered him out. Rhodes said he ought to be permitted to stay there. Crane said he must be taken out, and that anything in the medicine-chest he wanted for the sick negroes was at his service. This negro was placed on the after-hatch, near the cabin, where he remained, in a comfortable position, until after the boat got into port. I did not do anything for the sick negroes. The captain put the medicine-chest at the disposal of Rhodes, and told him he should have anything he wanted for the negroes, but he must not bring them in the cabin.

22. To the twenty-second interrogatory he answers: Said negroes

did not suffer in any manner during the voyage, from any fault or neglect of the master, officers, or crew of said steamship.

23. To the twenty-third interrogatory he answers: I do not remember any other fact in relation to the matter in controversy that will benefit either of the parties, except that before giving my testimony, I was shown a release or discharge from the owners of said steamship, to all of the officers and crew of said steamship, which was annexed to a deposition of Benjamin F. Dabney, whose testimony had been taken in said cause, which release was dated the 5th day of February, 1850.

Cross-interrogatories.

1. To the first cross-interrogatory he answers: I am twenty-four years of age; I am now in the employ of the owners of the steamship Portland, as first mate of said ship; I make New Orleans my home when ashore, and it has so been my home for over two years past; previous to that time I resided at Hackensack, New Jersey.

2. To the second cross-interrogatory he answers: During all the month of December last, up to the 24th day of said month, I was mate of the steamship Galveston, in the employ of her owners, and was mate of said ship during the voyage to Galveston, when said steamship left New Orleans, the 9th day of said month, on said voyage.

3. To the third cross-interrogatory, he answers: The conversation spoken of in my answers to the direct interrogatories occurred on board of the Galveston, and on the levee in New Orleans. I do not recollect any of the persons then present, except those named as engaged in the conversation.

4. To the fourth cross-interrogatory he answers: I never have owned any negro slaves.

5. To the fifth cross-interrogatory he answers: I stayed on board of the steamship Galveston all of the night of the 8th of December last, and said steamship left that port on her voyage next day, and I was on board during the voyage. I was employed in loading said steamship for said voyage.

6. To the sixth cross-interrogatory he answers: Israel C. Harris first spoke to me about my testimony in the cause, and requested me to go to Galveston and give in my evidence in court, and state all I knew about it. He said the trial would be on the 17th of February, 1850. He did not ask me what facts I knew or anything further than as above stated. I went to Galveston, but the case was not tried. I then stated what I knew about the case to Mr. Merriman and Mr. Potter, attorneys for the owners of said steamship, at their request. I do not remember any other persons to whom I have stated my testimony in the cause.

PETER M. BOGART.

UNITED STATES OF AMERICA,
Fifth Circuit and E. District of Louisiana,
City of New Orleans, ss:

I, M. M. Cohen, a commissioner duly appointed on the 17th of April, 1842, by the Circuit Court of the United States for the Fifth Circuit and District of Louisiana, under and by virtue of the acts of Congress entitled "An Act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States," passed Feb. 20th, 1812; and the act of Congress entitled "An Act in addition to an act entitled an act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States," passed March 1st, 1817; and the act entitled "An Act to establish the Judicial Courts of the United States," passed Sept. 24th, 1789, do hereby certify that the reason for taking the foregoing deposition is, that the witness lives in New Orleans, more than one hundred miles from Galveston, State of Texas, the place of trial of the cause for and in which said deposition is taken and is necessary; and by virtue of the annexed commission I further certify that no notice was made out and served on the plaintiff or adverse party, agent, or attorney, to be present at the taking of the deposition and to put interrogatories if he or they may think fit, and that no notice of the time and place of taking said deposition was made out and served on said plaintiff or adverse party, because neither the said adverse party nor any attorney or agent of said adverse party was, at the time of taking said deposition, within (100) one hundred miles of the said city of New Orleans, the place of taking said deposition, to the knowledge of the undersigned, and because of the cross-interrogatories annexed.

I further certify that, on this eleventh day of March, A. D. 1850, I was attended by the witness, who is of sound mind and lawful age, and the witness was by me carefully examined and cautioned and sworn to testify the whole truth, and the deposition was by me reduced to writing in the presence of the witness, and after carefully reading the same to the witness he subscribed the same in my presence. I have retained the said deposition in my possession for the purpose of sealing up, directing the same with my own hand, and forwarding to the court for which the same is taken.

I further certify that I am not of counsel nor attorney to either of the parties to the suit in said deposition and caption named, or in any way interested in the event of said civil suit named in the caption.

In testimony whereof I have set my hand and seal.

M. M. COHEN,
U. S. Commissioner Circuit and District Court
United States for the E. District of Louisiana.

M. M. COHEN,
Commissioner.

3/57.

UNITED STATES OF AMERICA,
E. District of Louisiana, City of New Orleans, ss:

Be it remembered that on the seventh day of March, in the year of our Lord one thousand eight hundred and fifty, before me, M. M. Cohen, a commissioner duly appointed on the 19th April, 1842, by the Circuit Court of the United States in and for the Eastern District of Louisiana, under and by virtue of the acts of Congress, entitled "An Act for the more convenient taking of affidavits and bail in civil causes depending in the Courts of the United States," passed February 20th, 1812; and the act of Congress entitled "An Act in addition to an act entitled 'An Act for the more convenient taking of affidavits and bail in civil causes depending in the Courts of the United States,'" passed March 1st, 1817; and the act entitled "An Act to establish the Judicial Courts of the United States," passed September 24th, 1789, personally appeared B. F. Dabney, a person of sound mind and lawful age, a witness for the defendants in civil suit now depending in the District Court of the United States in and for the District of Texas, wherein Henry W. Rhodes is plaintiff, and the steamship Galveston, John R. Crane, master, is defendant; and the said B. F. Dabney being by me first carefully examined and cautioned, and sworn to testify the whole truth and nothing but the truth, did depose and say:—

To the first interrogatory he answers: I know both Henry W. Rhodes and John R. Crane; I first saw Rhodes on the levee in New Orleans two or three days previous to the 9th day of December, 1849; and I knew him as a passenger on the steamship Galveston from New Orleans to Galveston, Texas, and have not seen him since he landed in Galveston, Texas. I became acquainted with John R. Crane about the 25th November, 1849, in New Orleans; he was then Captain of the steamship Galveston, and I was then employed as second clerk on board said steamship, and Captain Crane continued as captain of said steamship until about the 25th day of December, 1849, when I left said steamship.

2. To the second interrogatory he answers: I do know the steamship Galveston; I had known her for nine months since as a steamship coming into New Orleans from Texas; but did not know her particularly until about the 25th of November, 1849, when I went on board of her as second clerk. John R. Crane was master of said steamship all of the month of December up to and after the 20th day of said month. I do not know the exact tonnage of said steamship; she is between five and six hundred tons; she will carry upwards of three hundred barrels. I never made any voyage on said steamship except between New Orleans and Galveston, from the 25th of November to the 25th of December, 1849, when I left her. During the time I was on her she made only two trips. On the voyage made by said steamship when she left New Orleans for Galveston on the 9th day of December, 1849, she had more passengers on board than on her former

voyage; but she was not by any means fully loaded with passengers or freight, but could have taken in many more passengers and much more freight. She had on board on the last named voyage, as near as I can recollect, about sixty-five cabin passengers and one hundred deck passengers, which last included 22 white men, the balance negroes. Any part of the ship deck from the shafts to the bow, is in all cases, the only portion of the ship allotted to deck passengers; but on the last named passage the negroes were permitted, by order of the Captain, on account of sickness and bad weather, to occupy aft of the shafts to the door of the ladies' cabin, which was not permitted on the first voyage.

3. To the third interrogatory he answers: I do not know who the owners are, except that I have heard that steamship belonged to Charles Morgan, of New York, and Harris and Morgan, of New Orleans.

4. To the fourth interrogatory he answers: The steamship Galveston was at New Orleans on the 6th, 7th, and 8th days of December last, and left for Galveston on the 9th of said month. Said steamship was advertised in the newspapers, at New Orleans, to leave there on the 9th of December, 1849. I was then second clerk of said steamship, and continued so to the 25th of said month, when I left her, and since have been first clerk on the steamship Globe. I have never been employed on any steamboats except the Galveston and Globe. The Globe is running between New Orleans and Brazos Santiago.

5. To the fifth interrogatory he answers: I was in New Orleans on the 6th, 7th, 8th, and 9th days of December last. I saw Henry W. Rhodes there, first on the 6th of said month, and I believe every day after until the Galveston left port. Rhodes, when I saw him on said day, was on the levee, bringing down freight and negroes. I did not hear any conversation between said Rhodes and Captain Crane on said days. Rhodes asked me, on each of said days, something in relation to his negroes, which he said were going to Texas, on said steamship. On the 6th or 7th day of said month, Rhodes came to the steamboat landing with negro baggage and boxes; told me he had made a private contract with Harris & Morgan to carry his negroes and baggage to Texas; said the negroes were to have deck passage, and asked me what were the accommodations of a deck passage, and what part of the boat was allowed for the deck passengers. I told him to go on board and look at that portion of the deck forward of the shafts, and all of that which was not occupied with deck freight when the boat started would be the place of deck passengers on the voyage. He went on board and examined the deck, and did not express to me any dissatisfaction. Rhodes asked me what the boat furnished deck passengers on the voyage. I told him nothing but drinking water and hot water to make their tea or coffee, and a fire to cook their victuals. A young man with Rhodes, who seemed to be interested in, and sometimes taking charge of his

business, asked me questions, on those days, similar to those asked by Rhodes, to which I gave similar replies.

6. To the sixth interrogatory he answers: On Sunday, the 9th day of December, 1849, the passengers went on board the morning of the day stated. I do not recollect the day the boat arrived at the port of Galveston, but I believe it was on the first Wednesday or Thursday after she left New Orleans. As near as I can recollect, there were sixty-five cabin passengers, besides children, and twenty-two white deck passengers, and seventy-eight negroes. During said voyage the boat did not have as many cabin or deck passengers as she could accommodate, or as much freight as she could carry. Each state-room accommodates two passengers. There are twenty-eight state-rooms and eight berths in the ladies' saloon in the cabin of the Galveston, and accommodations can be furnished on settees and the floor of the cabin to lodge at least half that number lodged in the state rooms. There was room enough on the deck during that voyage to have accommodated at least thirty more deck passengers than were on board, and eight hundred barrels of freight more than we had on board.

7. To the seventh interrogatory he answers: Rhodes had sixty-six negroes on the Galveston that voyage. They were taken on board at New Orleans, on the morning of the 9th of December last, just before the boat left for the port of Galveston. I first saw the negroes on the levee, in New Orleans, on the 8th day of December last. A young man then had charge of them, of whom I have before spoken, and who I supposed to be a son of said Rhodes. I do not know his name. The negroes, from the first time I saw them down to the end of said voyage, appeared in a suffering and destitute condition, without necessary clothing for negroes at home on a plantation, and not half clad for a voyage at that season of the year, such as they were about making. There were but very few blankets among the negroes. I do not believe half of them had blankets. The first I saw of the negroes was on the 8th of December. Rhodes told me on the 6th of December, that he had negroes in New Orleans that were going to Texas on the boat. I do not know the state of health in New Orleans at the time the boat left. I do not know how long said negroes had been in New Orleans. I heard, from report, that cholera was then prevailing there, but I did not see any one that I knew sick with it.

8. To the eighth interrogatory he answers: On the 6th or 7th day of December last I saw on the levee in New Orleans some luggage, mostly boxes, which Rhodes said at the time was his freight, but I did not know the contents of the boxes, and did not notice of what the other luggage consisted. I do not know what orders Rhodes or his agent gave concerning the freight; they gave none to me; I had no conversation about this freight or any other, with Rhodes or his agent, except as above stated. I did not hear any

conversation between Rhodes or his agent with Captain Crane or any other person about bedding, clothing, or any other freight.

9. To the ninth interrogatory he answers: It was the worst weather I have experienced at sea since I first went on the Galveston, blowing a severe norther from the time we left the river until we arrived in Galveston. The night before we left New Orleans it was cold and rainy. The last I saw of Rhodes's negroes that night was beween eight and nine o'clock, on the levee, in the rain and without shelter. I saw them on the levee in the morning looking very wretched and wet.

10. To the tenth interrogatory he answers: I would not have suffered any negroes of mine or in my charge on such a night to have remained exposed on the levee if shelter could have been procured at any price. Comfortable shelter could have been found at that night, or any other night, in New Orleans, for almost any number of negroes, at a reasonable price.

11. To the eleventh interrogatory he answers: Rhodes and the young man with him both inquired of me, and were shown the place on said steamship the negroes were to occupy during the voyage, and they were told it was allotted to all deck passengers on the voyage. And the place was so shown to them on the 6th or 7th of December last. The negroes occupied the place so shown during the voyage, and were permitted by the captain a greater privilege, by also occupying the deck abaft the shafts up to the door of the ladies' cabin, which was more comfortable than any part of the deck occupied by the white deck passengers, and all under shelter.

12. To the twelfth interrogatory he answers: Rhodes told me he had made a contract with Harris and Morgan to have his negroes taken to Texas on the boat as deck passengers, and that he, Rhodes, was to furnish them with food during the voyage. This is all I know or heard said about the contract.

13. To the thirteenth interrogatory he answers: I was passing among the negroes several times each day during the voyage, and I never saw them eating or with food in their possession. I do not believe they were properly fed, or I should have sometimes seen them eating, or with food in their possession, being compelled to go past them every time I went from my office to the cabin. The fault of their not being fed must have been the fault of Rhodes or his agents, as Rhodes was to feed them on the passage, and no one on board, to my knowledge, prevented him from doing so.

14. To the fourteenth interrogatory he answers: Said negroes were not provided with sufficient and proper bedding for negroes at home on a plantation, and were miserably provided with bedding and clothes for a voyage from New Orleans to Galveston in the month of December. The negroes had not sufficient or comfortable body clothes, and not half the number of blankets they ought to have had, and very little bedding of a poor quality. I did not see a mattress among them. The fault of their not being properly provided

with these articles, I suppose to be the fault of Rhodes, as he told me the boat was to furnish nothing of this kind for the negroes.

15. To the fifteenth interrogatory he answers: The negroes were not treated unkindly by any of the officers or crew of the boat, but on the contrary, by reason of the cold weather, and their sickness and half clad condition, they were allowed to occupy the deck abaft the shafts for greater comfort during the voyage, which is not allowed to deck passengers in that trade, and which was not occupied by any of the white deck passengers during said voyage. They were treated the same as the other deck passengers were treated on the voyage, and no cruelty or unkindness was practised on any of them by the officers or crew of the boat that I knew of or heard of.

16. To the sixteenth interrogatory he answers: The deck passengers were all treated alike on said voyage, except that the negroes of Rhodes had the most comfortable place on deck, by being permitted to occupy the deck abaft the shafts, which is not a right belonging to a deck passage. I heard no complaint made by any of the white deck passengers.

17. To the seventeenth interrogatory he answers: The negroes of Rhodes occupied the most comfortable portion of the deck by permission of the captain. In all other respects the deck passengers were treated alike.

18. To the eighteenth interrogatory he answers: That portion of the deck from the shafts forward to the bow of the boat: all mules, cattle, and horses that can be accommodated, are taken as freight, and carried on the same deck occupied by deck passengers; also other deck freight, leaving sufficient room for the deck passengers; but cattle are put forward near the bow, so as to leave deck passengers that portion of the deck under cover. There are two gangways or passages leading from the forward deck to the cabin. There are two passages or gangways six feet wide each, and seventy-five feet long. There is also an open passage between the two gangways, forward of the shafts.

19. To the nineteenth interrogatory he answers: The accommodation of deck passengers on the boats in that trade is to occupy that portion of the deck from the shafts forward to the bow not occupied with deck freight; and the boat furnishes only drinking water, and hot water for making tea and coffee. Food and bedding in all cases are furnished by the deck passengers, and the boat furnishes a stove and fire to cook it.

20. To the twentieth interrogatory he answers: A negro man and a negro woman died on the passage, who belonged to Rhodes, as I supposed. These were the only deaths. Some other negroes, which I supposed belonged to Rhodes, were sick on the passage, but I do not know the number so sick. The sickness was supposed, by the people on board, to be cholera. I have seen a great many die of cholera, and from my observations I believed the sickness among

these negroes to be cholera. None of the other deck passengers were sick during the voyage, except the usual sea-sickness.

21. To the twenty-first interrogatory he answers: I have before stated all of the facts that I remember in relation to the death and sickness amongst the deck passengers on said voyage; the deaths and sickness were exclusively among the negroes that I suppose belong to Rhodes. I heard nothing said by Rhodes or his agent about the sick negroes. I did nothing for the sick negroes, and was not requested to do anything for them. I furnished nothing for the negroes, and do not know whether or not the master of the boat did.

22. To the twenty-second interrogatory he answers: The negroes in charge of Rhodes, and which I suppose belonged to him, suffered nothing during said voyage through the fault or neglect of the master, officers or crew of said steamship; their sufferings all arose from the neglect of Rhodes or his agent in not providing comfortable bedding, clothing and food, and from the sickness with which two of them died.

23. To the twenty-third interrogatory he answers: I do not remember any other fact in relation to the matter in controversy, or any fact that can benefit either of the parties, except that before giving my testimony Messrs. Morgan and Harris placed in my hand a release or discharge to all of the officers and crew of said steamship, which is annexed to my answer, and dated the 5th day of February, 1850.

Answers to cross-interrogatories, by B. F. Dabney.

1. To the first cross-interrogatory he answers: I am 28 years of age; I am not at present in any business, or in the employ of any person, and have not been since I left the steamship Globe, the first day of February, 1850; I consider New Orleans my home, and have so considered it for about a year past; I was, previous to that time, a clerk for the Southern Railroad Company, and resided in Petersburg, Virginia.

2. To the second cross-interrogatory he answers: I was second clerk on the steamship Galveston, in the employ of the owners of said steamship, on the 7th, 8th, 9th and 10th days of December last, and continued such clerk during said month, up to the 25th day of said month.

3. To the third cross-interrogatory he answers: The conversations to which I refer in my answers to the direct interrogatories were had with Rhodes and a young man I supposed to be his son or overseer, on the levee, and on board the steamship Galveston in New Orleans; I only recollect the conversation as I have stated, but cannot tell the names of any of the persons who might have been present; I was busy about my work, and took no note of the other persons, if any were present.

4. To the fourth cross-interrogatory he answers: I do not, and never have owned negro slaves; my father owned negro slaves, and

most of my life I have been accustomed to negro slaves, and have had them in my charge and working under my control.

5. To the fifth cross-interrogatory he answers: I stayed on board of the steamship Galveston all of the night of the 8th of December last, after between 8 and 9 o'clock of said night, and said steamship left on her voyage next day, and I went on her; I assisted as second clerk in receiving freight on board said steamship for said voyage.

6. To the sixth cross-interrogatory he answers: Israel C. Harris first spoke to me about the case, and requested me to go to Galveston and give testimony as to all I knew about the case, which he said was to be tried the 17th of February; I went to Galveston, but the case was not tried; I then informed Mr. Merriman and Mr. Potter, the attorneys for the owners of the Galveston, for what purpose I came, and at their request I told them all the facts I knew about the case; I do not remember any other person that I have talked with about my testimony in the cause.

B. F. DABNEY.

Release attached to the deposition of B. F. Dabney, to wit:—

Know all men by these presents, that we, Charles Morgan, of the city and State of New York, and Israel C. Harris and Henry R. Morgan, of the city of New Orleans, State of Louisiana, owners of the steamship Galveston, do each and all of us hereby release and forever discharge Herbert E. Bena or Bochner, Peter Bogart, and B. F. Dabney, and all others of the crew of the steamship Galveston, and each and all of them, from all claims and demands, and all actions and rights of action of every name, nature and description, which we or either of us have or might have against any one, more, or all of said persons on any account whatsoever, and for any and every cause, up to this date.

In witness whereof, we have hereunto set our hands and affixed our seals on this 5th day of February, A. D. 1850.

[SEAL.] CHARLES MORGAN,
By his Attorney, I. C. HARRIS,
[SEAL.] I. C. HARRIS,
[SEAL.] HENRY R. MORGAN.

UNITED STATES OF AMERICA,
E. District of Louisiana,
City of New Orleans:

Personally appeared on the seventh day of March, in the year of our Lord one thousand eight hundred and fifty, before me, M. M. Cohen, a commissioner duly appointed on the 19th April, 1842, by the Circuit Court of the United States in and for the Eastern District of Louisiana, under and by virtue of the acts of Congress entitled "An Act for the more convenient taking of affidavits and bail

in civil causes depending in the Courts of the United States," passed February 20th, 1812, and the act of Congress entitled "An Act in addition to an act entitled 'An Act for the more convenient taking of affidavits and bail in civil causes depending in the Courts of the United States,' " passed March 1st, 1817, and the act entitled "An Act to establish the Judicial Courts of the United States," passed September 24th, 1789. Personally appeared Israel C. Harris, who being duly sworn, deposeth and saith that he is part owner of the steamship Galveston, and that Charles Morgan and Henry R. Morgan are the other co-owners, and he, deponent, with Henry R. Morgan, signed the within instrument for themselves, and acknowledged the same to be their act and deed, for the purposes therein mentioned. That deponent is agent of Charles Morgan, and signed the within release for said Charles, and acknowledges the same to be the act and deed for said Charles, for the purposes therein stated.

I. C. HARRIS.

Sworn to and subscribed before me this 7th March, 1850.

[SEAL.] M. M. COHEN,
U. S. Commissioner.

UNITED STATES OF AMERICA,
Fifth Circuit and E. District of Louisiana,
City of New Orleans, ss:

I, M. M. Cohen, a commissioner duly appointed on the 17th April, 1842, by the Circuit Court of the United States for the Fifth Circuit and District of Louisiana, under and by virtue of the acts of Congress entitled "An Act for the more convenient taking of affidavits and bail in civil cases depending in the Courts of the United States," passed February 20th, 1812, and the act of Congress entitled "An Act in addition to an act entitled 'An Act for the more convenient taking of affidavits and bail in civil cases depending in the Courts of the United States,' " passed March 1st, 1817, and the act entitled "An Act to establish the Judicial Courts of the United States," passed September 24th, 1789, do hereby certify, that the reason for taking the foregoing deposition is that the witness lives more than one hundred miles from Galveston, State of Texas, the place of trial of the cause for and in which said deposition is taken and is necessary; and by virtue of the annexed commission, I further certify that no notice was made out and served on the plaintiff or adverse party, agent or attorney, to be present at the taking of the deposition, and to put interrogatories, if he or they may think fit, and that no notice of the time and place of taking the said deposition was made out and served on said plaintiff or adverse party, because neither the said adverse party, nor any attorney or agent of said adverse party was, at the time of taking said deposition, within (100) one hundred miles of the said City of New Orleans, the place

of taking said deposition, to the knowledge of the undersigned, and because of the cross-interrogatories annexed.

I further certify that, on this seventh day of March, A. D. 1850, I was attended by the witness, who is of sound mind and lawful age, and the witness was by me carefully examined and cautioned and sworn to testify the whole truth, and the deposition was by me reduced to writing in the presence of the witness, and after carefully reading the same to the witness he subscribed the same in my presence. I have retained the said deposition in my possession for the purpose of sealing up, directing the same with my own hand, and forwarding to the court for which the same is taken.

I further certify that I am not of counsel nor attorney to either of the parties to the suit in said deposition and caption named, or in any way interested in the event of said civil suit named in the caption.

In testimony whereof I have hereunto set my hand and seal.

M. M. COHEN,
U. S. Commissioner Circuit and District Court United States for the E. District of Louisiana.

M. M. COHEN,
Commissioner.

The following deposition of E. Adler, M. D., was read in evidence in behalf of respondents at the hearing of this cause, to wit:—

UNITED STATES OF AMERICA,
E. District of Louisiana, City of New Orleans, ss:

Be it remembered that, on this 27th day of March, in the year of our Lord one thousand eight hundred and fifty, before me, M. M. Cohen, a commissioner duly appointed on the 19th April, 1842, by the Circuit Court of the United States in and for the Eastern District of Louisiana, under and by virtue of the acts of Congress entitled "An Act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States," passed Feb. 20th, 1812, and the act of Congress entitled "An Act in addition to an act entitled an act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States," passed March 1st, 1817; and the act, entitled "An Act to establish the Judicial Courts of the United States," passed Sept. 24th 1789, personally appeared E. Adler, a person of sound mind and lawful age, a witness for the defendants in civil suit now depending in the District Court of the United States in and for the District of Texas, wherein Henry W. Rhodes is plaintiff, and the Steamship Galveston, &c. is defendant; and the said E. Adler being by me first carefully examined and cautioned and sworn to testify the whole truth, and nothing but the truth, did depose and say that, during the month of December, 1849, cholera did exist and prevail in New Orleans aforesaid, and that negroes in transitu, being unac-

climated and somewhat exposed to the weather, would be more than likely to take it. Deponent was, in said month of December, in the year 1849, and prior thereto, and is now, a duly licensed and authorized practising physician; that in said month of December, 1849, cholera was not epidemic, but sporadic in New Orleans; that cholera made its appearance here about the 13th day of December, 1848, and has never entirely disappeared from New Orleans since said December, 1848.

E. ADLER, M. D.

UNITED STATES OF AMERICA,
Fifth Circuit and E. District of Louisiana,
City of N. Orleans, ss:

I, M. M. Cohen, commissioner duly appointed on the 19th April, 1842, by the Circuit Court of the United States for the Fifth Circuit and District of Louisiana, under and by virtue of the acts of Congress entitled "An Act for the more convenient taking affidavits and bail in civil causes depending in the Courts of the United States," passed Feb. 20th, 1812; and the act of Congress entitled "An Act in addition to an act entitled 'An Act for the more convenient taking of affidavits and bail in civil causes depending in the Courts of the United States,'" passed March 1st, 1817; and the act entitled "An Act to establish the Judicial Courts of the United States," Sep. 24th, 1789, do hereby certify that the reason for taking the foregoing deposition is, that the witness lives in New Orleans, more than one hundred miles from Galveston, State of Texas, the place of trial of the cause for and in which said deposition is taken and is necessary.

I further certify that no notice was made out and served on the plaintiff, or adverse party, agent or attorney, to be present at the taking of the deposition, and to put interrogatories, if he or they may think fit; and that no notice of the time and place of taking the said deposition was made out and served on said plaintiff or adverse party, because neither the said adverse party, nor any attorney or agent of said adverse party was, at the time of taking said deposition, within (100) one hundred miles of the said city of New Orleans, the place of taking said deposition, to the knowledge of the undersigned.

I further certify that on this 27th day of March, A. D. 1850, I was attended by the witness, who is of sound mind and lawful age, and the witness was by me carefully examined, and cautioned, and sworn to testify the whole truth, and the deposition was by me reduced to writing in the presence of the witness, and after carefully reading the same to the witness, he subscribed the same in my presence. I have retained the said deposition in my possession for the purpose of sealing up, directing the same with my own hand, and forwarding to the court for which the same is taken.

I further certify that I am not of counsel nor attorney to either of the parties to the suit in said deposition and caption named, or

in any way interested in the event of said civil suit named in the caption.

In testimony whereof I have hereunto set my hand and seal.

M. M. COHEN,
U. S. Commissioner Circuit and District Courts United States for the E. District of Louisiana.

M. M. COHEN,
Commissioner.

And afterwards, on the twenty-fifth day of May, in the year of our Lord one thousand eight hundred and fifty, this following decree was filed and entered in this cause, to wit:—

HENRY W. RHODES
vs.
STEAMSHIP GALVESTON, her tackle, apparel, and furniture, and JOHN R. CRANE, Master, CHARLES MORGAN, ISRAEL C. HARRIS, and HENRY R. MORGAN, Claimants and Respondents.

Be it remembered, that this cause came on to be heard before the court at the April Term, A. D. 1850, of this court, and the motion of the respondents to dismiss the writ of seizure issued in this cause against said Steamship Galveston having there been heard and overruled, and also the demurrer of the respondents and claimants, Charles Morgan, Israel C. Harris, and Henry R. Morgan, and the demurrer of respondent, John R. Crane, having there been heard and overruled, this cause was then heard upon the pleadings and proofs, and was argued by counsel; and the court not then being sufficiently advised in the premises, took time to consider of the same until the May term, A. D. 1850, of this court. And now, to wit, on the twenty-fourth day of May, A. D. 1850, being a day of said May term of said court, the court then being sufficiently advised in the premises, and it appearing to the satisfaction of the court, that the law and the evidence are for the respondents, and that the libellant has not sustained his allegations: it is therefore considered, ordered, adjudged, and decreed by the court, that the libellant take nothing by his libel and complaint; and that the respondent, John R. Crane, recover of and from the libellant and his sureties, William R. Smith and Henry B. Martin, all costs by him about this suit expended, the same to be taxed; and that the claimants and respondents, Charles Morgan, Israel C. Harris, and Henry R. Morgan, recover of and from the said libellant and his sureties, William R. Smith and Henry B. Martin, all costs by them about this suit expended, the same to be taxed. And it further appearing to the satisfaction of the court that the claimants and respondents, Charles Morgan, Israel C. Harris, and Henry R. Morgan, are the proper owners of the said steamship Galveston, her tackle, apparel,

and furniture, it is therefore considered, ordered, adjudged, and decreed, that the same be restored to them.

JOHN C. WATROUS.

And afterwards, on the same day, to wit, on the twenty-fifth day of May, A. D. 1850, the libellant having in open court prayed an appeal to the Supreme Court of the United States, the court thereupon passed the following order, to wit:—

HENRY W. RHODES
vs.
STEAMSHIP GALVESTON, her tackle, apparel, and furniture, &c., &c.

On motion of libellant in this cause, it is ordered that an appeal be granted and allowed him to the Supreme Court of the United States, from the decree entered herein, in this cause; it is further ordered, that he be allowed the term of forty days to enter into bond and approved security, as required by law.

And afterwards, on the twenty-ninth day of June, in the year of our Lord one thousand eight hundred and fifty, the libellant herein, by his proctors, filed the following letter of attorney, to wit:—

(*Power of Attorney.*)

THE UNITED STATES OF AMERICA,
District of Texas:

IN THE DISTRICT COURT OF THE UNITED STATES
For the District of Texas:

I, Henry W. Rhodes, hereby make, constitute, and appoint Joseph A. Swett, of Galveston, in said District, my true and lawful attorney, for me and in my name, with full and complete authority and power to make, execute, and deliver any and all bonds or bond that in the opinion of the said Swett it may be necessary to make, execute, and deliver, in any way concerning, or in relation to a certain suit now depending in said Court, wherein Henry W. Rhodes is libellant and the Steamship Galveston, Charles Morgan, Israel C. Harris, and Henry R. Morgan are claimants and respondents; especially delegating to said Swett full and complete power and authority to make, execute, and deliver an appeal bond, and any and all bond or bonds for costs that may be necessary or required in order to take said cause by appeal to the Supreme Court of the United States; hereby ratifying and confirming all my said attorney may do in the premises.

HENRY W. RHODES. [SEAL.]

Witnesses: J. P. COLLINS,
JOHN B. ASHE.

3/63.

Afterwards, on the same day, to wit: on the twenty-ninth day of June, A. D. 1850, the libellant, by his proctors, filed the following bond in this cause, to wit:—

(*Appeal Bond.*)

In the United States District Court for the District of Texas, sitting in Admiralty:—

Between HENRY W. RHODES
AND
STEAMSHIP GALVESTON and JOHN R. CRANE, master, RESPONDENTS.

In Admiralty.

Know all men by these presents, that we, Henry W. Rhodes and William R. South, are held and firmly bound unto Charles Morgan, of the city and State of New York, and Israel C. Harris and Henry R. Morgan, of the city of New Orleans, in the State of Louisiana, in the sum of one thousand dollars, lawful money of the United States of America, for the payment of which, well and truly to be made to the said Charles Morgan, Israel C. Harris, and Henry R. Morgan, their certain attorney, executors, administrators or assigns, we bind ourselves and each of us, jointly and severally, and our heirs, executors, and administrators, and the heirs, executors, and administrators of each of us, firmly by these presents. Sealed with our seals, and dated this twenty-ninth day of June, in the year of our Lord one thousand eight hundred and fifty.

The condition of the above obligation is such, that whereas the said District Court has made and entered in the above entitled suit a final decree, against which final decree the above named Henry W. Rhodes has prayed and obtained an appeal to the Supreme Court of the United States: Now, if the said Henry W. Rhodes shall promptly pay all costs and damages which he may be adjudged to pay by the said Supreme Court of the United States, touching his said appeal, then this obligation shall be null and void, otherwise it shall remain in full force and virtue.

[SEAL.] HENRY W. RHODES,
By his Attorney in fact, J. A. SWETT.
[SEAL.] WM. R. SMITH.

Signed, sealed and delivered in presence of
JAMES LOVE.

Approved June 29, 1850.
JOHN C. WATROUS.

And afterwards, on the twenty-ninth day of April, in the year of our Lord one thousand eight hundred and fifty-two, the respondents in this cause, by their proctors, filed in court here, the mandate of the Supreme Court of the United States in this cause, in the words and of the tenor following, to wit:—

(*Mandate of Supreme Court.*)

UNITED STATES OF AMERICA, *ss.*

The President of the United States of America, to the Honorable the Judge of the District Court of the United States for the District of Texas, greeting:— [L. S.]

Whereas, lately in the District Court of the United States for the District of Texas, before you, in a cause between Henry W. Rhodes, libellant, and the Steamship Galveston, her tackle, apparel, and furniture, and John R. Crane, master, and Israel C. Harris, and Henry R. Morgan, claimants and respondents, in admiralty, wherein a decree was rendered in favor of the said claimants and respondents, and against the said libellant; whereupon the said libellant prayed an appeal, which was allowed by the said District Court, to remove the said cause to the Supreme Court of the United States, as by the inspection of the certificate of the clerk of said court, under the seal of the said District Court, which was brought into the Supreme Court of the United States, agreeably to the act of Congress and the rules of the said Supreme Court in such case made and provided, fully and at large appears:

And whereas, in the present term of December, in the year of our Lord one thousand eight hundred and fifty-one, the said cause came on to be heard before the said Supreme Court; and it appearing that the appellant has failed to have his cause filed and docketed in conformity to the rules of this court, it is now here ordered, adjudged, and decreed by this court, that this appeal from the District Court of the United States for the District of Texas be and the same is hereby docketed and dismissed with costs, and that the said claimants and respondents recover against the said libellant thirty-three dollars and twelve cents, for their costs herein expended, and have execution therefor; and that this cause be, and the same is hereby remanded to the said District Court for further proceedings to be had therein in conformity to law and justice, the said appeal notwithstanding. Dec. 12.

And afterwards, to wit: On the twelfth day of September, in the year of our Lord one thousand eight hundred and fifty-three, the libellant in this cause by his proctors filed an appeal bond in the words and of the tenor following, to wit:—

(*Appeal Bond.*)

Know all men by these presents, that we, Henry W. Rhodes as principal, and William G. Hale and John Pennington as sureties, are held and firmly bound unto John R. Crane, Charles Morgan, Israel C. Harris and Henry R. Morgan, in the sum of five hundred dollars, to be paid to them, the said John R. Crane, Charles Morgan, Israel C. Harris, and Henry R. Morgan, their heirs, executors, administrators and assigns, for which payment well and truly to be made

3664.

and done, we hereby bind ourselves, our heirs, executors and administrators, jointly and severally, firmly by these presents. Sealed with our seals, and dated this ninth day of August, in the year of our Lord, one thousand eight hundred and fifty-three.

Whereas, lately in the District Court of the United States for the District of Texas, at the May term thereof, held at Galveston, A. D. 1850, in a certain cause there pending in admiralty, wherein the said Henry W. Rhodes was libellant, and the said John R. Crane, as master of the steamship Galveston, was respondent; and the said Charles Morgan, Israel C. Harris and Henry R. Morgan were also respondents and claimants of the said steamship Galveston; it was by the court ordered, adjudged and decreed, "that the libellant take nothing by his libel and complaint, and that the respondent, John R. Crane, recover of and from the libellant and his sureties, William R. Smith and Henry B. Martin, all costs by him about his suit in this behalf expended, the same to be taxed; and that the claimants and respondents, Charles Morgan, Israel C. Harris, and Henry R. Morgan recover of and from the libellant and his securities, William R. Smith and Henry B. Martin, all costs by them about this suit expended, the same to be taxed; and it further appearing to the satisfaction of the court that the claimants and respondents, Charles Morgan, Israel C. Harris, and Henry R. Morgan are the proper owners of the said steamship Galveston, her tackle, apparel and furniture, it is therefore considered, ordered, adjudged and decreed, that the same be restored to them."

From which said decree, so as aforesaid rendered, the said Henry W. Rhodes, by his solicitors and proctors, Ebenezer Allen and William G. Hale, has prayed for a second appeal to the Supreme Court of the United States, at a term thereof to be held in the city of Washington, on the first Monday in December next (his first appeal heretofore granted having been dismissed for informality). Now, therefore, the consideration of the foregoing obligation is such, that if the said Henry W. Rhodes shall well and truly prosecute his said appeal with effect, and pay to the said John R. Crane, Charles Morgan, Israel C. Harris, and Henry R. Morgan, all such damages, costs, and charges as shall be awarded to them by the said Supreme Court, in case he fails to make good his said appeal, then the obligation shall be void and of none effect, otherwise to be and remain in full force and virtue.

HENRY W. RHODES, [SEAL.]
By W. G. HALE.
WILLIAM G. HALE. [SEAL.]
JNO. PENNINGTON. [SEAL.]

In presence of
M. HERBERT NORRIS.

Approved:
R. C. GRIER,
Associate Justice S. C. U. S.

Aug. 9, 1853.

And thereupon, on the same day, to wit: on the twelfth day of September, in the year of our Lord last aforesaid, a citation in due form was issued in said cause in the words and of the tenor following, to wit:

Citation.

To JOHN R. CRANE, CHARLES MORGAN, ISRAEL C. HARRIS, and HENRY R. MORGAN:—

Whereas Henry W. Rhodes has prayed for and obtained an appeal from the judgment and decree of the District Court of the United States for the District of Texas, rendered at the May term thereof, A. D. 1850, at Galveston, in a certain cause then depending in the said Court in Admiralty, wherein the said Henry W. Rhodes was libellant of the steamship Galveston, and you, the said John R. Crane, as master of said steamship, was respondent, and the said Charles Morgan, Israel C. Harris, and Henry R. Morgan, were also respondents and claimants of the said steamship; which appeal will be had to the Supreme Court of the United States, at the next term thereof, to be held at Washington, on the first Monday of December next.

You are therefore hereby cited to appear before the said Supreme Court at the city of Washington, on the first Monday of December next, to do and receive what may appertain to justice to be done in the premises.

Witness the Honorable Roger B. Taney, Chief Justice of the said Supreme Court, this the ninth day of August, in the year of our Lord one thousand eight hundred and fifty-three. [SEAL].

JAMES LOVE,
Clerk.

Allowed, valeat quantum valeat.

R. C. GRIER,
Associate Justice S. C. U. S.

Aug. 9, 1853.

Upon which citation the following return of service is endorsed by the Marshal, to wit:—

(*Marshal's Return.*)

Received on the twelfth day of September, 1853, and executed on the same day, by exhibiting the original writ to Franklin H. Merriman and M. M. Potter, the proctors and attorneys on record of the respondents and claimants in the said writ mentioned, and by delivering to each of said proctors a true copy thereof, the said respondents and claimants not being within this district.

BEN. McCULOCH,
U. S. Marshal,
by JA. H. CLEVELAND,
Dep. Marshal.

Sept. 12th, 1853.

DISTRICT COURT OF THE UNITED STATES,
District of Texas:

In Admiralty.

HENRY W. RHODES, Libellant,
vs.
THE STEAMSHIP GALVESTON, her tackle, apparel, &c., and JOHN R. CRANE, Master of said steamship, and CHARLES MORGAN, ISRAEL C. HARRIS, and HENRY R. MORGAN, Claimants and Respondents.

I, James Love, Clerk of the District Court of the United States for the District of Texas, at Galveston, certify that the annexed and foregoing two hundred and fifty-eight pages contains a complete transcript and a true copy of the record and all the proceedings had in the above entitled cause.

In testimony whereof I hereto set my hand and affix the seal of said court, at the City of Galveston, this fourteenth day of [SEAL.] September, in the year of our Lord one thousand eight hundred and fifty-three.

JAMES LOVE,
Clerk.

To JOHN R. CRANE, CHARLES MORGAN, ISRAEL C. HARRIS, and HENRY R. MORGAN:—

Whereas Henry W. Rhodes has prayed for and obtained an appeal from the judgment and decree of the District Court of the United States for the District of Texas, rendered at the May term thereof, A. D. 1850, at Galveston, in a certain cause then depending in the said Court in Admiralty, wherein the said Henry W. Rhodes was libellant of the steamship Galveston, and you, the said John R. Crane, as master of the said steamship, was respondent, and the said Charles Morgan, Israel C. Harris, and Henry R. Morgan were also respondents and claimants of the said steamship; which appeal will be had to the Supreme Court of the United States at the next term thereof, to be held at Washington on the first Monday of December next.

You are therefore hereby cited to appear before the said Supreme Court, at the city of Washington, on the first Monday of December next, to do and receive what may appertain to justice to be done in the premises.

Witness the Honorable Roger B. Taney, Chief Justice of the said [SEAL.] Supreme Court, this the ninth day of August, in the year of our Lord one thousand eight hundred and fifty-three.

JAMES LOVE,
Clerk.

Allowed: Valeat quantum valeat.

R. C. GRIER,
Associate Jus. S. C. U. S.

Aug. 9, 1853.

On this twelfth day of October, in the year of our Lord one thousand eight hundred and fifty-three, at the city of Galveston, in the State of Texas, before me, the subscriber, a commissioner duly appointed by the District Court of the United States for the District of Texas, to take affidavits and acknowledgments of bail, personally appeared J. A. H. Cleveland, and makes oath that on the twelfth day of September, in the year aforesaid, he delivered true copies of the within citation to Franklin H. Merriman and M. M. Potter, proctors of the said respondents and claimants; and that the said respondents and claimants are not within this State and District.

JOHN S. JONES,
U. S. Commissioner.

Received on the twelfth day of September, 1853, and executed on the same day, by exhibiting the original writ to Franklin H. Merriman and M. M. Potter, the proctors and attorneys on record of the respondents and claimants in the said writ mentioned, and by delivering to each of said proctors a true copy thereof—the said respondents and claimants not being within this District.

BEN. McCULLOCH,
U. S. Marshal,

by J. A. H. CLEVELAND,
Dep. Marshal.

Sep. 12th, 1853.

(*Citation.*)

Returned and filed 12th September, A. D. 1853.

JAMES LOVE,
Clerk.

Cita'n and serv'e
Filed 26 Oct. 1853.